5-6-88
Vol. 53 No. 88
Pages 16235-16376

Federal Register

Friday
May 6, 1988

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, Kansas City, MO, and New York, NY, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months in paper form, or $188.00 per year, or $94.00 for six months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 26; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: Laurice Clark, 202–523–3517

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.
WHERE: Room 147–148, Federal Building, 601 East 12th Street, Kansas City, MO
RESERVATIONS: Call the St. Louis Federal Information Center;
Missouri: 1–800–392–7711
Kansas: 1–800–432–2934

NEW YORK, NY

WHEN: June 13; at 1:00 p.m.
WHERE: Room 305C, 26 Federal Plaza, New York, NY
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212–264–4810.

Contents

Federal Register

Vol. 53, No. 88

Friday, May 6, 1988

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

Presidential Documents

Title 3—

The President

Proclamation 5807 of May 3, 1988

Asian/Pacific American Heritage Week, 1988

By the President of the United States of America

A Proclamation

We do well to salute Americans of Asian and Pacific ancestry for their accomplishments and for those of their forebears who through the decades have offered our land their talents, their determination, and a truly immeasurable gift, the treasure of their ancient heritages.

The contributions of Asian and Pacific Americans and their cultural vitality have benefited the United States in countless ways. Not least among them have been deep appreciation of the unalienable rights to life, liberty, and the pursuit of happiness that form the core of the American ethos, and the willingness and ability to defend these treasures always. Asian and Pacific Americans have won distinction in every field, and continue to strengthen our Nation with industry, initiative, and love of country; that is cause for rejoicing among all Americans, during Asian/Pacific American Heritage Week and the entire year.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning May 8, 1988, as Asian/Pacific American Heritage Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-10228
Filed 5-4-88; 2:51 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of May 3 on signing Proclamation 5807, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 18).

Presidential Documents

Proclamation 5808 of May 3, 1988

National Digestive Disease Awareness Month, 1988

By the President of the United States of America

A Proclamation

Digestive diseases rank second among all of the causes of disability due to illness in the United States, and account for one-tenth of the economic burden of illness in our land. Their social and economic impact is enormous; half of all Americans are affected by them at some time during life. More Americans are hospitalized for digestive diseases than for any other family of illness.

In recent years major advances have taken place in digestive disease research, but efforts to determine their causes and to develop ways to prevent and treat them have only begun. Knowing the impact of these diseases and of the critical need for research in this field, private, scientific, and governmental organizations have committed themselves to increasing public awareness and understanding of gastrointestinal diseases.

In recognition of the fourth anniversary of the National Digestive Disease Education Program and of the importance of all efforts to combat digestive diseases, the Congress, by House Joint Resolution 421, has designated the month of May 1988 as "National Digestive Disease Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 1988 as National Digestive Disease Awareness Month. I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to take part in appropriate activities to encourage further research into the causes and cures of all types of digestive disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-10229
Filed 5-4-88; 2:52 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5809 of May 3, 1988

National Drinking Water Week, 1988

By the President of the United States of America

A Proclamation

Americans are thankful for the amount of water with which our country is blessed—for our more than two million miles of streams, our more than 30 million acres of lakes and reservoirs, our other surface waters, and our subterranean reserves known as aquifers. We also appreciate our public water systems, whose complex processes provide us with some 12 billion gallons of generally inexpensive and high-quality drinking water daily.

We can be grateful too for the Americans who are helping to bring safe drinking water to millions in the developing world through the efforts of charitable, business, and other private groups and the Agency for International Development. From providing technical assistance to water systems in burgeoning cities to helping construct one-pipe water stands in countless villages in Africa, Asia, and Latin America, dedicated Americans are bringing water to a thirsty world. Water supplies in those developing lands mean improved health and well-being and often presage better productivity and economic vitality that benefit us all.

Less than a century ago, epidemics of waterborne disease were a major public health threat in our country. Today, behind every drop of good drinking water are dedicated individuals such as scientists, engineers, elected officials, water plant owners and operators, regulatory officials, and citizen groups, whose unceasing efforts allow us to enjoy the world's best drinking water.

We must be aware, however, that we do face some difficulties regarding drinking water. Lead eroding from the lead pipes and solder used in some water systems is causing health problems, especially for children; natural contaminants such as radon need attention in many water systems; and man-made contaminants are at levels of concern in some water supplies. Controlling these problems will be a challenge, but not one beyond our abilities or our determination.

State and local governments continue their efforts in this regard, and the Safe Drinking Water Act of 1974, as amended in 1986 (Public Law 99–939), enlists the help of the Environmental Protection Agency in preserving and improving our drinking water. Because of this law and growing public concern, dramatic changes in public water systems over the next 5 years are likely to affect every community.

Consumers and the private sector help protect and improve drinking water by checking the quality of local systems and regional supplies and by working with utilities and State and local officials to protect and improve them. They help preserve water supplies by supporting wellhead protection and watershed control measures. And consumers encourage improved operation and maintenance of water facilities, increased monitoring, replacement of aging pipes and equipment, and installation of new treatment technologies where necessary.

We desire drinking water of the highest quality and realize that our large water supply is neither limitless nor without expense. Knowing that good drinking water is a precious resource and one of the world's most important products, we need to continue to understand and identify potential hazards, how such hazards enter our water supply, and the best means to eliminate them.

The Congress, by Senate Joint Resolution 185, has designated May 2 through May 8, 1988, as "National Drinking Water Week" and has authorized and requested the President to issue a proclamation in observance of that occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 2 through May 8, 1988, as National Drinking Water Week. I call upon the people of the United States and government officials to observe that week with appropriate programs, ceremonies, and activities to enhance public awareness about drinking water and recognition of the benefits of drinking water.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-10230
Filed 5-4-88; 2:53 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5810 of May 3, 1988

Father's Day, 1988

By the President of the United States of America

A Proclamation

Once again we celebrate Father's Day, by tradition the third Sunday in June, a day to honor and salute fathers everywhere for their love and devotion.

As a weary child tumbles into his father's arms, to be lifted up and carried, he feels his father's strength and is content. In that perch he is like a captain, confidently scanning the horizons of his world, secure in the knowledge that his ship will carry him safely through any threatening seas. Children, vulnerable and dependent, desperately need such security, and it has ever been a duty and a joy of fatherhood to offer it.

Being a father requires strength in many ways; above all, it requires character. Raising a family is no easy task, of course, but one of trial, frustration, and disappointment. Great strength and more than a little courage are needed to persevere, to fight discouragement, and to keep working for the family. In that strength, and with God's grace, fathers find the patience to teach, the fortitude to provide, the compassion to comfort, and the mercy to forgive. All of this is to say that they find the strength to love their wives and children selflessly. And it is above all for this wondrous, mysterious love that fathers shower upon their families, and that allows them to ceaselessly put their families' needs first, that we honor fathers with their own special day.

Our gratitude is not limited to Father's Day, but remains constant; indeed, there are not enough days in the year to express it properly. Still, it is fitting that on such a day the American people pause to celebrate all fathers for their loving care for their youngsters. Our Nation can only continue to prosper if our families prosper. Nothing can replace the family's role as prime nurturer and educator of children, and nowhere are our country's shared values more effectively transmitted to future generations.

So let us thank all fathers on this day; but, above all, let us each take this occasion to express our thanks and our affection to our own fathers, whether we can do so in person or in prayer. We are perhaps no longer little children riding on our fathers' shoulders, yet we will forever feel their firm and loving guidance through life's challenges.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 19, 1988, as Father's Day. I invite the States and communities and people of the United States to observe that day with appropriate ceremonies as a mark of appreciation and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all Americans to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-10231]
Filed 5-4-88; 2:54 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 612]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 612 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 350,000 cartons during the period May 8 through May 14, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: Regulation 612 (§ 910.912) is effective for the period May 8 through May 14, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein..

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This section is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on May 3, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11–2 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons is steady.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.912 is added to read as follows:

(This section will not appear in the Code of Federal Regulations.)

§ 910.912 Lemon Regulation 612.

The quantity of lemons grown in California and Arizona which may be handled during the period May 8, 1988, through May 14, 1988, is established at 350,000 cartons.

Dated: May 4, 1988.

Robert C. Keeney,
Deputy Director,
Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88–10225 Filed 5–5–88; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Predetermined Amortization Schedule System (PASS) Account Servicing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Multiple Family Housing Servicing and Collections Accounting Procedure to implement administrative procedures regarding transfers of accounts and to implement amortization of recoverable costs through the Automated Multiple Housing Accounting System (AMAS). The intended effects of this action are to allow transfers to be more easily handled under AMAS and to reduce possible monetary defaults.

EFFECTIVE DATE: July 5, 1988.

FOR FURTHER INFORMATION CONTACT: Arlene Halfon, Senior Loan Specialist, Multiple Family Housing Servicing and Property Management Division, Farmers Home Administration, Room 5329, 14th

and Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 447–3187.

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed according to 7 CFR, Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action, consisting only of accounting changes, does not constitute a major Federal Action significantly affecting the quality of human environment and according to the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Intergovernmental Review

This program/activity is listed in the Catalog of Federal Domestic Assistance under Nos. 10.405, Farm Labor Housing Loans and Grants and 10.415, Rental Housing Loans. For the reasons set forth in the Final Rule related Notice(s) to 7 CFR Part 3015, Subpart V, this program/activity is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

General Information

1. The Automated Multi-Housing Accounting System (AMAS) being used to process transfers of Predetermined Amortization Schedule System (PASS) accounts allows only accounts showing current (neither delinquent nor "Future Paid") to be transferred on same terms. If the account has had overpayments or advance regular payments, these payments are held in "Future Paid" status under AMAS. Provisions must be made for rolling back the account to current status in order to allow the transfer to take place.

2. Recoverable costs currently are charged to a borrower's account in a lump sum. In order to more effectively service borrowers' accounts, AMAS will allow recoverable costs to be amortized over a period not to exceed 5 years, thereby reducing the necessity of raising rental payments to cover the burden of bringing the account current after the lump sum payment has been made. Guidelines for determining the amortization period for recoverable costs are being provided.

Discussion of Comments

A proposed rule was published in the **Federal Register** (52 FR 27562) on July 22, 1987, and invited comments for 60 days ending September 21, 1987. Only one comment was received, from an association of borrowers. They had no objections to any of the provisions of the proposed regulation and actively support amortization of the vouchered cost.

Several minor changes are being made in the final rule: (1) A change in the guidelines for determining the period of the amortization of the recoverable costs are being made. (2) Due to delays in developing the procedure and the automated software for amortizing the recoverable costs, FmHA will allow amortization of cost items to be processed retroactively in select cases. (3) Several other minor clarifications have been added.

List of Subjects in 7 CFR Part 1951

Account servicing, Accounting, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Mortgages.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart K—Predetermined Amortization Schedule System (PASS) Account Servicing

2. In § 1951.501, the last sentence of paragraph (a)(2)(ii) is revised and paragraph (c) is added to read as follows:

§ 1951.501 General.

(a) * * *

(2) * * *

(ii) * * * Payment billings are subject to § 1951.506 of this subpart.

* * * * *

(c) All FmHA MFH loans (RRH, RCH, LH, RHS, and SO) whether DIAS or PASS, are subject to the definitions contained in § 1951.504 of this subpart, and payment application as outlined in § 1951.510 of this subpart.

3. Section 1951.504 is amended by redesignating current paragraphs (i) through (s) as paragraphs (k) through (u) and current paragraphs (c) through (h) as paragraphs (d) through (i), respectively, and adding new paragraphs (c) and (j) to read as follows:

§ 1951.504 Definitions and statements of policy.

* * * * *

(c) *Amortized recoverable costs.* Recoverable cost items may be amortized over a period up to 5 years. This function will allow the servicing official to voucher recoverable cost items such as taxes.

(1) *Payment of real estate taxes.* When a borrower's taxes are paid by voucher, the amortization period of the tax advance will be the number of months for which the taxes are being vouchered with a maximum of 5 years.

(2) *Costs other than real estate taxes.* Advances for costs other than real estate taxes will be amortized for 12 months unless, based on the borrower's repayment ability, a longer period is needed. An amortization period of more than 12 months will be used only when the cost is of a nonrecurring type. In no case, however, will the repayment period exceed 5 years.

(3) *Retroactive amortization of recoverable costs.* Recoverable costs which have been vouchered since May 1, 1985, may, with National Office approval, be retroactively amortized for applicable time periods as shown in paragraphs (c)(1) and (c)(2) of this section, if payments made since the costs were vouchered are sufficient to bring both the loan and cost accounts current. The following information should be forwarded to the National Office for approval of the reclassification to amortized status, and forwarded to the Finance Office for processing: An audit showing all costs vouchered along with payments made since the date of the cost item and to be made prior to the reclassification; the estimated reapplication of the payments due to reclassification showing that the account will be current after the reclassification; and the proposed budget and management case files.

* * * * *

(j) *Non-recoverable costs.* Payments charged to a loan program insurance fund by use of a fund code. These costs are only incurred after Government acquisition of title to the property, and are therefore charged to an inventory account.

* * * * *

§ 1951.507 [Amended]

4. In § 1951.507, paragraph (e)(1) is amended in the last sentence by removing the words "From _____ To _____," and inserting in their place the words "as of _____".

5. Section 1951.510 is amended by redesignating current paragraphs (e)(5) through (e)(8) as paragraphs (e)(6) through (e)(9) respectively; revising paragraph (e)(4); and adding new paragraph (e)(5) to read as follows:

§ 1951.510 Payment application.

* * * * *

(e) * * *

(4) Amortized recoverable costs due.

(5) Unamortized recoverable costs due.

* * * * *

6. Section 1951.514 is revised to read as follows:

§ 1951.514 Recoverable and non-recoverable cost charges.

The District Director will service recoverable and non-recoverable cost items according to § 1951.14 of Subpart A of this Part and Subpart P of Part 2024 which is available in any FmHA office. (Recoverable and non-recoverable costs are defined in § 1951.504 of this subpart.)

§ 1951.517 [Amended]

7. In § 1951.517, paragraph (b)(1) is amended in the first sentence by changing the reference from "§ 1951.501(a)(3)" to read "§ 1951.501(a)(2)(i)."

8. Section 1951.518 is added to read as follows:

§ 1951.518 Determining current loan balances for transfer.

Same terms transfers, when the transferor has been converted to PASS, must take place in a current loan status on the date of the transfer. Any delinquent principal and interest must be brought current. Overpayments and advance regular payments made on PASS accounts result in the creation of a "future paid" status account under AMAS. These advance payments must be reversed off and applied to the transferor's principal balance prior to determining the loan balance to be transferred. If the future payments have been made through rental assistance, they must be refunded to the transferor and reapplied in the form of cash on the loan balance.

Date: January 29, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-10120 Filed 5-5-88; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 88-026]

CITE® Test, Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations by allowing designated epidemiologists to consider the results of the concentration immunoassay technology (CITE®) test as a diagnostic supplement to the standard card testing of official vaccinates. This action is warranted in order to permit faster diagnostic testing than has been available to determine brucellosis disease status, and to avoid the unnecessary destruction of valuable cattle and bison.

DATES: This interim rule was effective on April 27, 1988. Consideration will be given only to comments postmarked or received on or before July 5, 1988. The incorporation by reference of certain procedures in the regulations is approved by the Director of the Federal Register April 27, 1988.

ADDRESSES: Send an original and two copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC, 20090-6464. Please state that your comments refer to Docket No. 88-026. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Hugh E. Metcalf, Senior Staff Veterinarian, Program Planning Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a serious infectious and contagious disease, caused by bacteria of the genus *Brucella*, that affects animals and man. The Secretary of Agriculture is authorized to cooperate with the states in conducting a brucellosis eradication program. The regulations in 9 CFR Part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the interstate spread of brucellosis.

Official brucellosis tests are used for determining the brucellosis status of cattle, bison, and swine. The regulations stipulate that testing negative to an official brucellosis test is a condition for certain interstate movements of cattle, bison, and swine. Additionally, official tests are used to determine eligibility for indemnity payments for animals destroyed because of brucellosis.

The standard card test is the official test used most often in cattle and bison sent to market. However, this test is so sensitive that cattle and bison that have antibodies from being vaccinated against brucellosis may erroneously test "positive."

Cattle and bison that react positively to the standard card test cannot be moved interstate except for immediate slaughter unless they are later found to have been incorrectly classified as brucellosis reactors. This can involve holding these animals in quarantine for several days until a final diagnostic test is done at a laboratory.

The CITE® test is a new procedure that permits diagnostic testing in the stockyard, and therefore provides faster results than can be provided by tests performed in a laboratory. The CITE® test is less sensitive than the standard card test to antibodies resulting from brucellosis vaccination and serves, therefore, as a supplemental procedure for immediate verification of standard card test results.

The procedures for conducting the CITE® test and determining its results are incorporated by reference and are on file at the Office of the Federal Register. The CITE® test was licensed by the United States Department of Agriculture, effective December 31, 1987, as being safe, pure, potent, and effective. Licensing was based on the results of tests performed on approximately 1,000 samples from certified brucellosis free cattle, over 700 samples cultured positive in laboratories, and roughly 2,000 random field samples.[1]

This amendment allows designated epidemiologists to use the CITE® test as a diagnostic supplement to standard card testing when determining the brucellosis disease status of official vaccinates.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists, which warrants publication of this interim rule without prior notice and opportunity for public comment. Standard card test errors are currently

[1] Further information may be obtained from AgriTech Systems, Inc., 100 Fore Street, Portland, ME 04101.

resulting in the unnecessary destruction of cattle and bison valuable because of their breeding characteristics. This occurs because many livestock markets operate on the basis of one-day sales and are not able to hold animals while laboratory verification of non-specific standard card test reaction is being conducted. If the owner of the cattle or bison cannot transport and hold the animals elsewhere under quarantine conditions, they can only be moved for slaughter.

At present, many cattle and bison with false "positive" reactions to the standard card test (caused by vaccination antibodies) are moved for slaughter because the owner is unable to hold the animals until laboratory verification can be obtained. The CITE® test will supply immediate supplementary data, allowing same-day verification of most questionable standard card test results. This will prevent the slaughter of many official vaccinates whose genes would otherwise be lost to this country's breeding pool.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register.** Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This action allows designated epidemiologists a faster method of gathering data to supplement standard card test results. The current procedure of verifying standard card test results through laboratory testing would remain a viable option.

This amendment does not change the testing requirements for brucellosis. It merely authorizes an optional methodology to laboratory verification of standard card test results. CITE® testing is faster than laboratory testing and allows for faster marketing, but the economic effect on owners of official vaccinate cattle or bison should not be significant.

Under these circumstances, the Acting Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Incorporation by reference, Quarantine, Transportation.

Accordingly, 9 CFR Part 78 would be amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 would continue to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 78.1, the definition of "official test" is amended by redesignating paragraph (a)(9) as paragraph (a)(10) and by adding a new paragraph (a)(9) to read as follows:

§ 78.1 Definitions.

* * * * *

(a) * * *

(9) *Concentration immunoassay technology (CITE®)* test. An enzyme immunoassay that may be used as a diagnostic supplement to the standard card test by designated epidemiologists determining the brucellosis disease status of official vaccinates. The test must be done in accordance with the CITE® *Brucella abortus* Antibody Test Kit instructions, licensed by the United States Department of Agriculture and approved as of December 31, 1987, and incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from AgriTech Systems, Inc., 100 Fore Street, Portland, ME 04101. Copies may be inspected at Program Planning Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

3. In § 78.1, the definition of "official test" is further amended by adding a new paragraph (i) to newly redesignated paragraph (a)(10) to read as follows:

* * * * *

(a) * * *

(10) * * *

(i) The designated epidemiologist may consider the results of CITE® tests when evaluating the results of standard card tests of official vaccinates.

* * * * *

Done in Washington, DC, this 27th day of April, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–9722 Filed 5–5–88; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–CE–37–AD; Amendment 39–5904]

Airworthiness Directives; Beech Models A23–24, A24, A24R, B24R and C24R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Models A23–24, A24, A24R, B24R snd C24R airplanes. It requires the replacement of the electric fuel boost pump with a pump having improved vane material. Reports have been received of engine power loss

which resulted from loss of fuel pressure, caused by broken electric fuel boost pump vane material obstructing fuel flow in the engine driven fuel pump. Incorporation of the replacement fuel pump will preclude breakage of the electric boost pump vanes and thereby eliminate the resultant engine failures.

EFFECTIVE DATE: June 6, 1988.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Beech Service Bulletin (MSB) No. 2217, dated February, 1988, applicable to this AD, may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085, telephone (316) 681–9111 or at the Rules Docket, FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Aerospace Engineer, Aircraft Certification Office, ACE–140W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 946–4427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring replacement of the electric fuel boost pump on certain Beech Models A23–24, A24, A24R, B24R and C24R airplanes was published in the **Federal Register** on January 8, 1988 (53 FR 514). The proposal resulted from six reports of electric boost pump vane failure on Beech Models A23–24, A24, A24R, B24R and C24R airplanes which caused partial or complete loss of engine power. These losses were attributed to blockage of the fuel flow path by broken vane pieces. In all the reported cases the pilots were able to either abort the take-off or safely make an emergency landing.

Investigation revealed that these airplanes are prone to fuel system blockage because they do not employ a screen or filter between the boost pump and the engine driven pump, and because the engine driven pump is susceptible to blockage by contaminants. Installation of an in-line filter between the boost pump and engine driven pump was not feasible due to difficulties associated with plumbing changes, pressure drop and possible water entrapment. Also, adding a filter would not resolve the original problem of vane breakage. As a result, Beech introduced a new fuel boost pump incorporating improved vane material, less susceptible to breakage. The new pump is being incorporated into Beech production type design data.

The FAA examined the above reports and determined that an unsafe condition exists or may develop in certain Beech Models A23–24, A24, A24R, B24R and C24R airplanes. Accordingly, the FAA proposed an AD which would require the incorporation of the improved fuel boost pump on the airplanes in question. Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. However, Beech subsequently issued MSB No. 2217, dated February, 1988, which described replacement procedures for the electric fuel boost pump. The FAA has determined that compliance with Beech MSB No. 2217 fully meets the requirements specified in the NPRM and does not impose any additional burden. Accordingly, the proposal is adopted with the addition of Beech MSB No. 2217 as the means of compliance.

The FAA has determined that this regulation only involves approximately 1163 airplanes at an approximate one time cost of $220 for each airplane or a total one-time fleet cost of $255,860. The cost of compliance with this AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

The regulations set forth in this amendment are promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C 1301, et seq.), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to Models A23–24 and A24 (Serial Numbers (S/Ns) MA–1 through MA–368); Model A24R (S/Ns MC–2 through MC–95); Models A24R, B24R and C24R (S/Ns MC–96 through MC–795), airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent reduction or loss of engine power due to fuel flow blockage resulting from broken electric fuel boost pump vanes in the engine driven fuel pump, accomplish the following:

(a) For airplanes with 14 volt electrical systems, replace the existing electric fuel boost pump with a Beech P/N 1816–00–1 pump in accordance with the instructions in Beech Service Bulletin (MSB) No. 2217, dated February, 1988.

(b) For airplanes with 28 volt electrical systems, replace the existing electric fuel boost pump with a Beech P/N 1817–00–1 pump in accordance with the instructions in Beech MSB No. 2217, dated February, 1988.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on June 6, 1988.

Issued in Kansas City, Missouri, on April 19, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88–10038 Filed 5–5–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87-NM-150-AD; Amdt. 39-5909]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, which currently require inspection for cracking of the wing front spar upper chord and repair, if necessary. This amendment combines the inspections presently required by both AD's, extends the area to be inspected, and requires repetitive inspections of front spar area previously modified. This amendment is prompted by several reports of cracks up to 18 inches long on airplanes on which terminating action had been completed. This condition, if not corrected, could compromise the ultimate load capability of the wing.

EFFECTIVE DATE: June 13, 1988.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-1923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection for cracking and repair or replacement, if necessary, of the wing front spar upper chord from the side of body (station 90) to station 225 on certain Boeing Model 737 airplanes, was published in the **Federal Register** on December 7, 1987 (52 FR 47943).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America submitted comments on behalf of three operators. The operators requested that they be allowed to phase in the requirements of this AD with the inspection program of the existing AD 74-01-01 for airplanes that have not been modified by the terminating action of AD 74-01-01, and that they be able to pick up the new inspections required by this AD on the next repetitive interval for AD 74-01-01. The proposed requirement of paragraph A. would require them to start inspections within 100 landings after the effective date of the AD, whereas AD 74-01-01 currently requires repetitive inspection, at 1,000-hour intervals, of a slightly smaller portion of the spar chord. One operator reported that, for the last six inspection cycles, it has inspected the additional area required to be inspected by the proposed AD, in conjunction with the inspection required by AD 74-01-01, and has not found any cracking in the additional area. The FAA concurs with the commenters' request since it has been determined that cracks will always occur first in the areas specified for inspection by AD 74-01-01. The final rule has been revised to include a new paragraph B. which provides alternate times for complying with this AD for unmodified airplanes. The FAA has determined that this change will not compromise safety, increase the economic burden on any operator, or expand the scope of the AD.

Another commenter requested that the repetitive inspection interval be extended to 1,100 flight hours to align with its current inspection interval under AD 74-01-01, which had been approved by the FAA based on the commenter's submittal of data which justified an equivalent level of safety. The FAA does not consider it appropriate to extend the inspection intervals required by paragraph A. to all operators without technical justification. However, any operator may request an adjustment of the compliance time on an individual basis based upon the provisions of paragraph F. of this AD, if the request includes substantiating data.

The commenters requested that the AD be revised to specify the repetitive inspection intervals of 1,000 landings be changed to flight hours rather than landings. The operators currently performing repetitive 1,000-hour inspections under the requirements of AD 74-01-01 would thereby be able to continue the new inspection program on their previously established schedule. The FAA has reviewed this request and concurs, since the cracking problems are caused by stress corrosion, a phenomenon that is primarily a function of time rather than flight cycles. Since the average flight time for the Model 737 is approximately one hour, this change does not increase the scope of the AD.

One commenter proposed that the issuance of the final rule be coordinated with the release of the next revision of Boeing Service Bulletin 737-57A1081. The operator stated that the existing Revision 10 of the service bulletin does not contain information necessary to remove access panels for inspection of the front spar adjacent to the side of the body. The FAA does not concur, since procedures describing proper access to areas which must be inspected are available in the applicable maintenance manual.

Additionally, the final rule has been revised to remove all references to the use of "later FAA-approved revisions of the applicable service bulletin," in order to be consistent with FAA policy in that regard. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD, since later revisions of the service bulletin may be approved as an alternate means of compliance with this AD, as provided by paragraph F.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

It is estimated that 300 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $96,000.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 737

airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 74-01-01, Amendment 39-2799 (42 FR 2054; January 10, 1977), and AD 87-05-52, Amendment 39-5627 (52 FR 18902; May 20, 1987), with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, as listed in Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure structural integrity of the wing front spar upper chord structure, accomplish the following:

A. Within 100 flight hours after the effective date of this AD, unless previously accomplished within the last 900 flight hours, visually inspect for cracks the forward side of the wing front spar upper chord from front spar station (FSS) 90 to FSS 225, both left and right sides, in accordance with Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987. Repeat these inspections at intervals not to exceed 1,000 flight hours.

B. Alternate means of compliance for paragraph A., above, only for airplanes which have been inspected in accordance with AD 74-01-01 and on which the spar chord segment, left FSS 108 to FSS 198 and/or right FSS 108 to FSS 198, was found to be free of cracks at the last inspection: Visually inspect that chord or chords for cracks in the forward side of the wing from FSS 90 to FSS 225, in accordance with Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987, within 900 flight hours from the last inspection, or within 100 flight hours after the effective date of this AD, whichever occurs later. Repeat these inspections at intervals not to exceed 1,000 flight hours.

C. Apply organic corrosion inhibitor after each inspection required by paragraph A. or B., above, in accordance with Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987.

D. If cracks are found as a result of the inspections required by paragraph A. or B., above, accomplish the following:

1. If cracks less than two inches in length are found, stop drill prior to further flight, in accordance with Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987. Thereafter, reinspect daily, using eddy current or dye penetrant inspection methods. If crack growth is observed, or prior to the accumulation of 400 hours time-in-service after stop drilling, whichever occurs first, repair in accordance with Boeing Alert Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987. After repair, continue to inspect in accordance with paragraph A., above.

2. If cracks are equal to or greater than two inches in length, repair prior to further flight, in accordance with Boeing Service Bulletin 737-57A1081, Revision 10, dated July 16, 1987. After repair, continue to inspect in accordance with paragraph A., above.

E. Installation of new and improved upper chord segment in accordance with Boeing Service Bulletin 737-57-1081, Revision 7, dated March 21, 1980, is considered terminating action for the repetitive inspections required by this AD for the structure replaced. However the repetitive inspections required by paragraph A., B., or D., above, as applicable, must continue for the structure *not* replaced.

F. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes AD 74-01-01, Amendment 39-2799; and AD 87-05-52, Amendment 39-5627.

This amendment becomes effective June 13, 1988.

Issued in Seattle, Washington, on April 25, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-10043 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-41-AD; Amdt. 39-5905]

Airworthiness Directives: The de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Model DHC-8-100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to de Havilland Model DHC-8-100 series airplanes not equipped with an Electronic Flight Instrument System (EFIS), which requires certain changes to the Airplane Flight Manual (AFM) procedures during Very High Frequency Omni Range (VOR) mode operations and the installation of a placard. This amendment is prompted by a report of inconsistent VOR Flight Director Mode operation, in the form of nuisance transitions to the VOR Overstation Sensor (VOR OSS) mode. This condition, if not corrected, could result in erroneous Flight Director VOR and VOR approach mode operation, or erroneous Autopilot VOR and VOR approach mode operation, which could lead to off-course approaches when in the VOR mode.

EFFECTIVE DATE: May 18, 1988.

ADDRESSES: The applicable service information may be obtained from de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Cuneo, Systems Branch (ANE-173), New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report that the Digital Air Data Computer (DADC), modified with DHC Modification No. 8/0794, as installed on de Havilland Model DHC-8-100 series airplanes, fails to transmit DME DISTANCE and VOR TO/FROM data over the Digital Data Bus to the Flight Guidance Computers. Displayed raw DME and VOR information remains valid, and EFIS-equipped airplanes are not affected.

This condition, if not corrected, could result in erroneous Flight Director VOR and VOR approach mode operation, or Autopilot VOR and VOR approach mode operation, which could lead to off-course approaches when the airplane is in the VOR mode.

De Havilland has issued Alert Service Bulletin A8–34–53, Revision B, dated April 1, 1988, which describes certain changes to operational procedures to address this problem. This service bulletin also describes procedures for installation of DADC part number (P/N) 7000700–975 Mod BF which, if installed, eliminates the need for the operational limitations.

The Canadian Air Transport Administration, which is the airworthiness authority for Canada, has issued Canadian Airworthiness Directive CF–88–05, dated March 4, 1988, which requires the operational limitations, and eventual installation of the modified DADC, as described above.

This airplane is manufactured in Canada and type certificated in the U.S. under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this situation is likely to exist or develop on other airplanes of the same type design registered in the U.S., this AD requires a change to the AFM procedures to prohibit operations in Flight Director VOR and VOR approach mode, and Autopilot VOR and VOR approach mode; and installation of a placard adjacent to the Flight Guidance Controller stating that VOR approach modes are prohibited. This amendment provides for optional terminating action for these requirements by the installation of DADC P/N 7000700–975 Mod BF, in accordance with the service bulletin previously mentioned.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

De Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd.: Applies to all Model DHC–8–100 series airplanes, Post Mod. 8/0794 [Digital Air Data Computer (DADC) P/N 7000700–975], not equipped with an Electronic Flight Instrument System (EFIS), certificated in any category. Compliance required as indicated, unless previously accomplished.

To preclude erroneous Flight Director or Autopilot VOR operations, accomplish the following:

A. Within 48 hours after the effective date of this AD:

1. Include the following limitation in the limitations section of the Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM: "Operation in Flight Director VOR and VOR approach mode, or Autopilot VOR and VOR approach mode, is prohibited."

2. Install a placard adjacent to the Flight Guidance Controller on the glare shield, stating: "VOR MODES PROHIBITED"

B. Installation of DADC P/N 7000700–975 Mod BF, in accordance with Part B of de Havilland Service Bulletin A8–34–53, Revision B, dated April 1, 1988, constitutes terminating action for the requirements of paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment becomes effective May 18, 1988.

Issued in Seattle, Washington, on April 20, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10044 Filed 5–5–88; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 87–NM–137–AD; Amdt. 39–5916]

Airworthiness Directives; SAAB-Fairchild Model SF–340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to SAAB-Fairchild Model SF–340A series airplanes, which currently requires the use of continuous ignition during operations in icing conditions to prevent engine flameout due to ice ingestion. This amendment would permit an optional installation of an automatic ignition system which operates the ignition, when necessary, to prevent engine flameout.

EFFECTIVE DATE: June 17, 1988.

ADDRESSES: The applicable service information may be obtained from SAAB–SCANIA, Product Support, S–58188, Linkoping Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle,

Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Armella Donnelly, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise Airworthiness Directive (AD) 85-26-51-R1, Amendment 39-5376 (51 FR 27527; August 1, 1986), applicable to SF-340A series airplanes, to provide for the optional installation of an automatic continuous ignition system, and a revision of the related Airplane Flight Manual procedures, was published in the **Federal Register** on November 18, 1987 (52 FR 44134).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter agreed with the proposal, but suggested that a warning be included in the automatic continuous ignition system design to alert the crew in the event of this system failure, thereby allowing for manual use of continuous ignition, if necessary. The FAA does not concur with this suggestion. Since failure of the ignition system is not, in itself, an unsafe condition, the FAA has determined that the addition of such a warning system is not necessary.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 50 manhours per airplane to accomplish the optional modification, and that the average labor cost will be $40 per manhour. Based on these figures, the cost of the optional modification to U.S. operators, should they choose to incorporate it, is estimated to be $2,000 per airplane.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance with this amendment per airplane ($2,000). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 FR 11.89.

§ 39.13 [Amended]

2. By amending AD 85-26-51-RI, Amendment 39-5376 (51 FR 27527; August 1, 1986), by revising paragraph B.2., as follows:

Saab-Fairchild: Applies to all Model SF-340A series airplanes, certificated in any category. Compliance required as shown below.

To minimize the hazards associated with engine flameout due to potential ice ingestion, accomplish the following, unless previously accomplished:

A. Prior to further flight, install a continuous ignition switch by incorporating the provisions of SAAB-Fairchild SF-340 Service Bulletin SF340-74-002, Revision 1, dated December 15, 1985.

B. Incorporate the following into the limitations section of the airplane flight manual. This may be accomplished by including a copy of this AD in the airplane flight manual.

1. Takeoff in conditions of slush on the runway is prohibited unless Modification 1185, "Nacelle—Exhaust Nozzle—Improved Drainage and Ventilation of Inlet Protection Device (IPD) and Special Inspection," as described in SAAB-Fairchild Service Bulletin SF340-54-002, Revision 1, dated April 3, 1985, has been accomplished.

2. Turn the engine and propeller anti-ice systems on and set the ignition ("IGN") switch to the continuous ("CONT") position during all operations in which icing could reasonably be expected to occur and for a period of five minutes after these conditions no longer exist. When Modification 1414, "Ignition—Introduction of Auto Ignition System," has been accomplished in accordance with SAAB Service Bulletin SF340-74-004, dated October 24, 1986, or a production equivalent, set the ignition switch to the "NORM" position.

3. In the definition of icing conditions stated in the FAA-approved flight manual on page 2-11, change the temperature stated in "Icing Conditions," paragraph 1, line 4, from "5° C" to "10° C," unless Modification 1319, "Installation of New Lower Inlet, IPD and Exhaust Nozzle," as described in SAAB-Fairchild Service Bulletin SF340-71-017, dated November 22, 1985, has been accomplished. If this modification has been accomplished, "5° C" can remain in the definition.

C. Conduct engine performance monitoring in accordance with General Electric Operating Engineering Bulletin (OEB) 2, Revision 4, dated December 14, 1985, or later FAA-approved revision.

D. Prior to further flight, and at intervals specified in General Electric OEB 4, Revision 4, dated December 14, 1985, or later FAA-approved revisions, perform an inspection and perform maintenance, as necessary, of the ignition system in accordance with that OEB.

E. Unless Modification 1319, as described in paragraph B.3., above, has been accomplished, in the event of an icing encounter, an inspection must be accomplished prior to the next departure to assure that no snow, ice, or slush accumulation is present in or around the inlet or the inlet protection device.

F. Following each flameout or re-ignition event, conduct an inspection of Stage 1 compressor blades, in accordance with General Electric OEB 4, Revision 4, dated December 14, 1985, or later FAA-approved revisions.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to SAAB-SCANIA, Product Support, S-58188, Linkoping, Sweden.

This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 17, 1988.

Issued in Seattle, Washington, on April 28, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-10039 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-48]

Amendment of Transition Area; Lake Charles, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Lake Charles, LA. This revision is necessary since a new standard instrument approach procedure (SIAP) to Runway 15 at Chennault Industrial Airpark, Lake Charles, LA, has been developed. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing the new SIAP. Coincident with this amendment, the status of the Chennault Industrial Airpark will change from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: 0901 UTC, July 28, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On November 2, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Lake Charles, LA (52 FR 44139).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise the transition area located at Lake Charles, LA. The development of a new SIAP to Runway 15 at the Chennault Industrial Airpark, Lake Charles, LA, has necessitated this revision. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing the new SIAP by expanding the existing 700-foot Lake Charles Transition Area. Coincident with this action is the changing of the airport status from VFR to IFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lake Charles, LA [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lake Charles Municipal Airport (latitude 30°07'32" N., longitude 93°13'22" W.), and within an 8.5-mile radius of the Chennault Industrial Airpark (latitude 30°12'37" N., longitude 93°08'35" W.).

Issued in Fort Worth, TX, on April 21, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-10041 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-36]

Revision of Transition Area; Big Sandy, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Big Sandy, TX. The development of a new standard instrument approach procedure (SIAP) to the Ambassador Field Airport, Big Sandy, TX, utilizing the Quitman Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this revision necessary. In addition, the SIAP to the Holly Lake Ranch Airport has been canceled, also making this revision necessary. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing the new SIAP to the Ambassador Field Airport, and to return that controlled airspace no longer required due to the cancellation of the SIAP that was serving the Holly Lake Ranch Airport. Coincident with this action is the changing of the status of the Ambassador Field Airport from visual flight rules (VFR) to instrument flight rules (IFR) and the changing of the status of the Holly Lake Ranch Airport from IFR to VFR.

EFFECTIVE DATE: 0901 UTC, June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Big Sandy, TX (53-FR-516).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the transition area located at Big Sandy, TX. The development of a new SIAP to the Ambassador Field Airport, utilizing the Quitman VORTAC, and the cancellation of the SIAP that was serving the Holly Lake Ranch Airport have made this revision necessary. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing the new SIAP to the Ambassador Field Airport and to return that controlled airspace no longer required due to the cancellation of the SIAP that was serving the Holly Lake Ranch Airport. Coincident with this action is the changing of the status of the Ambassador Field Airport from VFR to IFR, and the changing of the status of the Holly Lake Ranch Airport from IFR to VFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Big Sandy, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ambassador Field Airport (latitude 32°35'03" N., longitude 95°04'03" W.), and within 4.5 miles each side of the 139° radial of the Quitman VORTAC (latitude 32°52'49" N., longitude 95°22'00" W.), extending from the 6.5-mile radius to 15 miles northwest of the Ambassador Field Airport; and within a 5-mile radius of the Gilmer Upshur County Airport (latitude 32°41'47" N., longitude 94°56'55" W.); and within a 5-mile radius of the Gladewater Municipal Airport (latitude 32°31'44" N., longitude 94°58'18" W.).

Issued in Fort Worth, TX, on April 21, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–10042 Filed 5–5–88; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 87–ASW–37]

Revision of Transition Area; Dalhart, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area located at Dalhart, TX. The development of a new standard instrument approach procedure (SIAP) to Runway 35 at the Dalhart Municipal Airport, utilizing the Dalhart Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this revision necessary. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing all SIAP's now serving the airport.

EFFECTIVE DATE: 0901 UTC, June 2, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 624–5561.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Dalhart, TX (53 FR 619).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 1, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revise the transition area located at Dalhart, TX. The development of a new SIAP to Runway 35 at the Dalhart Municipal Airport, utilizing the Dalhart VORTAC, has necessitated this revision. This revision will increase the existing transition area by one-half mile and will add a new 4-mile wide arrival extension south of the airport. The existing 4-mile wide arrival extension north of the airport will remain the same. The intended effect of this revision is to provide adequate controlled airspace for aircraft executing all SIAP's serving the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Dalhart, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Dalhart Municipal Airport (latitude 36°01'16" N., longitude 102°32'52" W.), within 2 miles each side of the 002°

radial of the Dalhart VORTAC (latitude 36°05'39" N., longitude 102°32'39" W.), extending from the 9.5-mile radius area to 12 miles north of the airport; and within 2 miles each side of the 181° radial of the Dalhart VORTAC extending from the 9.5-mile radius area to 14.5 miles south of the airport.

Issued in Fort Worth, TX, on April 21, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-10040 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 71268-7268]

Revisions to the Export Administration Regulations Based on COCOM Review; Electronic Computers; Correction

March 29, 1988.

AGENCY: Export Administration, Commerce.

ACTION: Final rule; correction.

SUMMARY: A final rule that revised Export Control Commodity Number (ECCN) 1565A on the Commodity Control List (15 CFR 399.1, Supplement No. 1) was published in the **Federal Register** on January 29, 1988 (53 FR 2582). That rule decontrolled certain 16-bit computers and made other editorial changes to ECCN 1565A, which were based on agreements made by the Coordinating Committee. This document corrects three errors that appeared in the January rule.

Specifically, paragraph references cited in paragraph (d)(2) of Advisory Note 5 to equipment that would not likely be approved for export to Country Groups QWY are corrected, the word "and" is added to appear after paragraph (c) and not paragraph (d)(2), and the word "instruction" that appears in the definition of "fixed point processing data rate" is changed to the plural.

FOR FURTHER INFORMATION CONTACT: Joseph Westlake, Computer Systems Technology Center, Office of Technology and Policy Analysis, Telephone: (202) 377-2279.

Accordingly, the following corrections are made to Supplement No. 1 to § 399.1, ECCN 1565A, in the "Revisions to the Export Administration Regulations Based on COCOM Review; Electronic Computers," which was published in the **Federal Register** on January 29, 1988:

Supplement No. 1 to § 399.1 [Corrected]

On page 2586, in the first column, in Advisory Note 5, paragraph (c) is corrected by adding "and" at the end of the paragraph after the semi-colon; and paragraph (d)(2) is correctly revised to read "(2) Equipment described in paragraph (h)(1)(i)(C) and (h)(1)(i) (E) to (M)."

On page 2591, in the first full Note in the second column, in the definition of "fixed point processing data rate," the text that appears between the first and second formulas is correctly revised to read "*or* if no fixed point multiplication instructions are implemented ($t_{mx} = t_{msub}$), then:".

Dated: May 3, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-10116 Filed 5-5-88; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 390

[DoD Directive 5105.33]

Armed Forces Radiobiology Research Institute (AFRRI); Establishment

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This part establishes the Armed Forces Radiobiology Research Institute as a subordinate command of the Defense Nuclear Agency. This part updates and clarifies the responsibilities of the (AFRRI). The Institute was established under the authority vested in the Secretary of Defense and serves as the principal ionizing radiation radiobiology research laboratory for the Department of Defense.

EFFECTIVE DATE: November 25, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. R. Sphar, Office of the Under Secretary of Defense (Acquisition), Room 3D129, the Pentagon, Washington, DC 20301-3080, telephone number (202) 697-8535.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 390

Organization and function.

Accordingly, Title 32, Chapter I, is amended to add Part 390 as follows:

PART 390—ARMED FORCES RADIOBIOLOGY RESEARCH INSTITUTE

Sec.

Authority: 10 U.S.C. 133.

§ 390.1 Purpose.

This part is issued to update and clarify the responsibilities and functions of the Armed Forces Radiobiology Research Institute (AFRRI). It sets forth the organizational relationships and establishes the management and administrative procedures for AFRRI, in accordance with 32 CFR Part 381 and provides for the establishment of a Board of Governors.

§ 390.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 390.3 Policy.

It is DoD Policy that:

(a) AFRRI is designated a subordinate command of the Defense Nuclear Agency (DNA) established under the authority vested in the Secretary of Defense.

(b) AFRRI shall serve as the principal ionizing radiation radiobiology research laboratory for the Department of Defense and shall support defense research requirements identified by the DoD Components. AFRRI may provide services and perform cooperative research with other Federal and civilian agencies and institutions with the approval of the Director, DNA.

(c) The mission of AFRRI shall be to conduct research in the field of radiobiology and related matters essential to the operational and medical support of the Department of Defense and the Military Services.

(d) For purposes of cognizance by the Under Secretary of Defense for Acquisition (USD(A)), the AFRRI program shall be considered an integral part of the medical and life sciences research, development, test, and evaluation program.

§ 390.4 Responsibilities.

(a) The *Director, Defense Nuclear Agency*, shall:

(1) Manage the AFRRI, as provided by 32 CFR Part 381.

(2) Provide adequate support for the operation and maintenance of AFRRI within the limits of resources available to the DNA for such purposes.

(3) Chair the AFRRI Board of Governors, which shall consist of the Surgeons General of the Army, Navy, and Air Force; the Deputy Chiefs of Staff for Operations of the Army, Navy, and Air Force, or their designated representatives; and representatives of the (USD(A)) and the Assistant Secretary of Defense for Health Affairs (ASD(HA)). The Board of Governors shall:

(i) Meet at least annually and at the call of the Chair.

(ii) Invite advisors to these meetings.

(iii) Make periodic visits to AFRRI.

(iv) Advise the Director, DNA, and the Director, AFRRI, on AFRRI's performance by doing the following:

(A) Review the AFRRI research program and scientific findings.

(B) Provide advice on the long term direction of AFRRI's research program.

(C) Facilitate the communication of Service requirements and the dissemination of AFRRI research findings.

(D) Review Service nominations for Director, AFRRI, and provide a prioritized list of nominees to the Director, DNA.

(b) The *Director, Armed Forces Radiobiology Research Institute* (AFRRI), shall:

(1) Execute the approved day-to-day research program.

(2) Prepare the AFRRI long-range research program; annual planning, programming, and budgeting system submission; and facilities master plans for approval by the Director, DNA.

(3) Plan, program, and budget for funds to include in the DNA program. This does not prevent AFRRI's participation in reimbursable activities, subject to the approval by the Director, DNA.

§ 390.5 Organization.

AFRRI shall consist of a Director, a Scientific Director, and a supporting staff.

(a) The Director, AFRRI, shall be a military officer (in grade O–6) who holds an earned doctoral degree in one of the life sciences. The candidates for Director shall be nominated by the Surgeons General of the Army, Navy, and Air Force. Each Service shall nominate one individual with the proper background. Candidates shall be nominated on the basis of professional qualifications and demonstrated management ability. The Board of Governors shall review the Service nominees and provide a prioritized list of candidates to the Director, DNA, who shall select and appoint the Director, AFRRI. This appointment shall be for a 4-year period.

(b) The Scientific Director shall be a civilian with professional qualifications acceptable to the Board of Governors and the Director, AFRRI.

(c) The professional, technical, and supporting staff shall consist of military and civilian personnel authorized by a Joint Table of Distribution (JTD), developed by the Director, AFRRI, with approval of Director, DNA, and approved by the Joint Chiefs of Staff (JCS). Insofar as possible, the military members of the staff shall be provided equally by the Military Departments.

(d) The Military Departments shall assign military personnel to AFRRI in accordance with approved authorizations. Procedures for such assignments shall be as agreed between the Director, DNA, and the individual Military Departments.

(e) The pay, allowances (including subsistence), and permanent change-of-station costs of military personnel assigned to AFRRI shall be budgeted for and paid by the Military Department concerned. Additionally, these and other costs that are caused by or benefiting AFRRI, regardless of financing, shall be allocated to AFRRI in accordance with DoD Instruction 7220.24 [1] to identify the total cost associated with operating AFRRI and the share of that total cost allocatable to each of AFRRI's research projects.

§ 390.6 Functions.

Under established DoD policies, AFRRI shall:

(a) Operate research facilities for the study of radiobiology and ionizing radiation bioeffects, and disseminate the results.

(1) The scope of this research shall reflect requirements identified by DoD Components in support of military operational planning and employment (current and future), and shall give special emphasis to individual and organizational performances under nuclear combat conditions in realistc operational scenarios.

(2) The AFRRI program shall consider the present and projected threats, Service operational concepts and weapons, and defense systems developments.

(b) Provide analysis, study, and consultation on the impact of the biological effects of ionizing radiation on the organizational efficiency of the Military Services and their members.

(c) Conduct cooperative research with the Military Medical Departments in those aspects of military operational and medical support considerations related to nuclear weapons effects and the radio biological hazards of space operations.

(d) Conduct advanced training in the field of radiobiology and the biological effects of nuclear weapons to meet the internal requirements of AFRRI, the Military Services, and other Dod Components and organizations.

(e) Perform such other functions as may be assigned.

§ 390.7 Authority

32 CFR Part 381 applies to the Director, DNA, for exercising headquarters management of AFRRI and fulfilling the functional responsibilities implicit in this part.

§ 390.8 Effective date and implementation.

This part is effective November 25, 1987. Forward two copies of implementing documents to the Under Secretary of Defense of Acquisition within 120 days.

May 2, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10112 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

[1] Copies may be obtained, if needed, from the U.S. Naval Publication and Forms Center, Attention: Codes 1052, Philadelphia, PA 19120.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–88–22]

Special Local Regulations; Marine Event; American Diabetes Association Choptank River Swim Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the American Diabetes Association Choptank River Swim. This event will consist of approximately 400 swimmers swimming the Choptank River from shore to shore. The swim course will begin at the sandy beach in front of the Ferry Boat Restaurant on the Talbot County side,

run parallel to and within 200 feet of the Choptank River Bridge and end at the south shore. The intended effect will be to restrict general navigation in the regulated area. These regulations are needed to provide for the safety of life on the navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 9:30 a.m. until 12:00 Noon, May 29, 1988.

FOR FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 [804] 398–6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received in sufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this regulation are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Commander Robert J. Reining, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

Fletcher Hanks is sponsoring the event, which will consist of approximately 400 swimmers swimming the Choptank River from the north shore in front of the Ferry Boat Restaurant on the Talbot County side, run parallel to and within 200 feet of the Choptank River Bridge, and end at the south shore. It is necessary to close a portion of the Choptank River to all traffic except participants for the safety of those competing in the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–0522 is added to read as follows:

§ 100.35–0522. Choptank River, MD.

(a) *Definitions:*

(1) *Regulated Area:* The waters of the Choptank River, from shore to shore, between the Choptank River Bridge and a line drawn from the north shore at latitude 38°37'37" North, longitude 76°03'08" West and the south shore at latitude 38°34'25" North, longitude 76°04'03" West.

(2) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Group Baltimore.

(b) *Special Local Regulations:*

(1) Except for participants in the Choptank River Bridge Swim, or vessels authorized by the Coast Guard Patrol Commander, no vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop his vessel immediately upon being directed to do so by any Coast Guard commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign, and

(ii) Proceed as directed by any Coast Guard commissioned, warrant or petty officer.

Effective Date: These regulations are effective from 09:30 a.m. until 12:00, Noon, May 29, 1988.

Dated: April 26, 1988.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 88–10063 Filed 5–5–88; 8:45 am]

BILLING CODE 4910–14–M

PANAMA CANAL COMMISSION

35 CFR Part 9

Implementation of the Freedom of Information Reform Act of 1986 and Revisions to the Fee Schedule of the Freedom of Information Act

AGENCY: Panama Canal Commission.

ACTION: Final rule with change.

SUMMARY: This rule revises the Panama Canal Commission regulations implementing the Freedom of Information Reform Act of 1986 and updates its fee schedule for Freedom of Information Act and Privacy Act requests. In addition to the changes detailed in the interim rule identifying different types of requesters and bringing the fees into conformance with OMB guidelines and in line with current costs, this agency is including a fee waiver policy.

EFFECTIVE DATE: May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Duty, Agency Records Officer, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011–5000.

SUPPLEMENTARY INFORMATION: On August 20, 1987, [52 FR 31396] the Panama Canal Commission published an interim rule concerning its regulations implementing the Freedom of Information Reform Act [Pub. L. 99–570) and updating the fees it charges requesters under the Freedom of Information Act and the Privacy Act. The public was provided a 60-day comment period which ended on October 19, 1987. One comment was received and it was from the Justice Department requesting that this agency institute a fee waiver policy. After review of this request, the Panama Canal Commission is including a fee waiver policy in its Fee Schedule. This fee waiver policy follows the procedures set by the Justice Department in an April 2, 1987 memorandum. Consequently, the Panama Canal Commission's Freedom of Information Act/Privacy Act regulations and fee schedule are adopted as a final rule with the revision to include the fee waiver.

This rule is not a major rule under the requirements of Executive Order 12291. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 35 CFR Part 9

Freedom of information, Organization, Functions and availability of records, Panama Canal Commission, Privacy.

Accordingly, the interim rule amending 35 CFR Part 9 is adopted as a final rule with the following change:

PART 9—ORGANIZATION, FUNCTIONS, AND AVAILABILITY OF RECORDS PANAMA CANAL COMMISSION

1. The authority citation for Part 9 continues to read as follows:

Authority: 5 U.S.C. 552, as amended by Pub. L. 99–570, 100 Stat. 3207; 22 U.S.C. 3611.

§ 9.11 [Amended]

2. Section 9.11(e) is revised to read as follows:

* * * * *

(e) If you wish to request a waiver or reduction of fees, you must do so in writing to the Chief, Administrative Services Division, Agency Records Officer, Panama Canal Commission, APO Miami 34011–5000. The Agency Records Officer may waive or reduce the fees if the official decides that

providing the records you request would be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis.

(1) In order to determine whether disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the Agency Records Officer will consider the following four factors:

(i) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(ii) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding; and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, the Agency Records Officer will consider the following two factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(3) The Agency Records Officer will not consider waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain due to the Agency for another information access request.

(4) The Agency's decision to refuse to waive or reduce fees as requested under this section may be appealed to the Director, Office of Executive Administration, Panama Canal Commission, APO Miami 34011–5000. Appeals should contain as much information and documentation as possible to support the request for a waiver or reduction of fees. The requester will be notified within thirty working days from the date on which the Agency received the appeal.

Dated: May 3, 1988.

D.P. McAuliffe,

Administrator.

[FR Doc. 88–10127 Filed 5–5–88; 8:45 am]

BILLING CODE 3640–04–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

NARA Fee Schedule

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published in the **Federal Register** on Wednesday, April 13, 1988 (53 FR 12150). Section 1258.12, appearing on page 12151, contains no paragraph (d). This document corrects the paragraph designations.

FOR FURTHER INFORMATION CONTACT: John Constance or Nancy Allard at 523–3214.

Accordingly, in 36 CFR 1258.12 appearing in columns 2 and 3 of 53 FR 12151, paragraphs (e) through (i) are correctly designated as paragraphs (d) through (h).

Dated: April 29, 1988.

Claudine Weiher,

Acting Archivist of the United States.

[FR Doc. 88–10131 Filed 5–6–88; 8:45 am]

BILLING CODE 7515–01–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Amendments to Veterans' Job Training Act

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Compensation Cost-of-Living Adjustment Act of 1987 contains a provision which extends the deadline for a veteran to apply for training under the Veterans' Job Training Act to June 30, 1988. The regulation which contains this deadline is amended to reflect this new provision of law.

EFFECTIVE DATE: December 31, 1987.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service (225), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: Pub. L. 100–227, the Veterans Compensation Cost-of-Living Adjustment Act of 1987, contains a provision which affects the Veterans' Job Training Act. The deadline for a veteran to apply for training has been extended to June 30, 1988. The Veterans Administration (VA) is adopting an amendment to § 21.4632(e) in order to make it consistent with the law.

The VA finds that good cause exists for making the amended regulation final without previous publication of a notice of proposed rulemaking; and for making this extension retroactively effective on the effective date of the law. The change contained in the regulation is directly based upon the law. The VA must make the Code of Federal Regulations agree with the law. Public participation in this rulemaking is, therefore, unnecessary. Since a Notice of Proposed Rulemaking is unnecessary and will not be published, this change does not come within the term "rule" as defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2), and is, therefore, not subject to the requirements of that Act.

Nevertheless, this amended regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. Although small entities will be affected by the extension of the Veterans' Job Training Act, all the effects will derive from the change in the law upon which the regulation is based. The regulation itself will have no effect upon small entities.

The VA has determined that the amended regulation does not contain a major rule as the term is defined by Executive Order 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.121.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 13, 1988.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by revising § 21.4632(e)(2)(i) to read as follows:

§ 21.4632 Payments.

* * * * *

(e) * * *

(2) * * *

(i) On behalf of any veteran who initially applies for a job training program after June 30, 1988;

(Authority: Pub. L. 98–543, sec. 212; Pub. L. 99–108; Pub. L. 99–238, sec. 201(e); Pub. L. 100–77, sec. 901(b); Pub. L. 100–227, sec. 201)

* * * * *

[FR Doc. 88–10098 Filed 5–5–88; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 111

Mailer Endorsement Specifications for Requesting Ancillary Services

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rulemaking modifies postal regulations to improve and standardize the endorsements through which a mailer requests certain forwarding or address correction services if a mail piece is undeliverable as addressed. To aid in execution of the service the mailer intends to request, the regulation prescribes the location, wording, and print size of permissible endorsements. When this rule becomes effective, a mail piece bearing a nonstandard endorsement will be refused.

EFFECTIVE DATE: November 5, 1988.

FOR FURTHER INFORMATION CONTACT: John Sadler, (202) 268–3523.

SUPPLEMENTARY INFORMATION: On February 25, 1988, the Postal Service published a proposed rule to modify the requirements for mailer ancillary service endorsements. 53 FR 5593. The Postal Service received twenty-one written comments to the proposed rule.

Ten respondents stated they support the Postal Service in its effort to standardize the placement and use of specific endorsement language for ancillary services. These respondents concurred with the Postal Service's judgment that enforcement of definitive regulations governing the use of mailer endorsements will facilitate the appropriate handling of mail at reduced costs for both mailers and the Postal Service.

The proposed rule would require a clear space of at least ¼ inch above and ¼ inch below an endorsement. Sixteen respondents expressed the view that the ¼" clear space requirement is unworkable on smaller envelopes. Operationally it is essential to leave a clear zone above and below the endorsement to ensure that the requested ancillary service is consistently provided. While the size of a #10 envelope leaves relatively little space between the return address and the address block, particularly when it is bar coded, the Postal Service believes that the ¼" clear space can and should be maintained. Mailers utilizing smaller envelopes can resolve their problems by choosing to eliminate non-address information in the return address area, eliminate the endorsement, or use a larger envelope. For these reasons, there will be no change to the specification for a ¼" clear space above and below the endorsement.

Fifteen respondents stated that the proposed print size requirements for endorsements are too restrictive in those situations where firm names and logos are considered. We recognize that a comparison to type size is unworkable when the oversize type for firm names and logos is used. Many respondents suggested that a specific type size requirement would be easier to comply with than a comparison to return address size or recipient address size. For these reasons, the final rule has been changed to provide that endorsements must be no smaller than 8 point Helvetica medium type or a manufacturer's generic equivalent.

Twelve respondents felt that the proposed prohibition on the use of brilliant colors and reverse printing for endorsements is unnecessary. These respondents expresed the opion that the maintenance of a ¼" clear space would eliminate the need for a prohibition on the use of brilliant colors. There seems to be some confusion over this proposal. This requirement comes from an existing regulation and specifically applies to the use of brilliantly colored envelopes which are not allowed under section 2000.011 of the Domestic Mail Classification Schedule (See 39 CFR Part 3001, Subpt. C, App. A). This provision has been clarified in the final rule to focus only on the use of brilliantly colored envelopes. Because recognition of information presented using reverse printing is more difficult for the human eye to assimilate, the prohibition on reverse printing will remain in the regulation.

Eleven respondents opposed the mandatory endorsement requirements of the proposed rule as being too restrictive. The Postal Service recognizes that these requirements are stringent, but believes they are fully justified. Operationally we feel we must have the authority to refuse mail improperly prepared, because without that authority the current problems cannot be eliminated. Mailers will continue to place endorsements all over mail pieces and use unclear abbreviations, and delivery personnel will continue to spend excessive time trying to find and decipher the endorsement to provide the requested service.

Eight respondents expressed the view that the authorized abbreviations are unclear. However, only one respondent offered alternatives to the proposed abbreviations. While full endorsements are more understandable, the commenter's suggestions would cause a greater lack of clarity operationally. The Postal Service permits abbreviations for long endorsements because we recognize there are situations where abbreviations are necessary. We believe the abbreviations published in the proposed rule are appropriate to cover such situations.

Seven respondents stated that the endorsement location requirement is unclear or too restrictive for non-letter size mail. Operationally this is the most important requirement of all. If the endorsement is consistently placed, delivery personnel can easily find it. In order to simplify the rules, however, the final regulations will specify, for all types of mail, that the endorsement be placed directly below the return address. We are also retaining the requirements that a full return address be used on all endorsed mail and that endorsements read in the same direction as the recipient's address.

Five respondents felt that the implementation timeframe is too short. While implementation timeframes were not specifically addressed in the proposed rule, the respondents stated that existing envelope stocks would take at least six months to exhaust. Therefore, we are delaying the implementation of this rule for six months. During the six month phase-in period mail will be accepted and delivered according to current practice.

We hope that the six month period will be used by both industry and postal personnel as an educational opportunity. Mailers who still have problems after the November 5 implementation date should consult their local postmaster.

Two respondents requested that if mail not bearing correct endorsements is nevertheless entered into the mailstream, such mail should be handled in accordance with the mailer's endorsement and not be returned by delivery personnel for violating the endorsement requirements. Section 151.151 has been amended to reflect this view.

One respondent suggested that we remove those sections dealing with invalid endorsements. The Postal Service has in the past used this section to clarify exactly which endorsements are not valid. With this rulemaking, the emphasis has shifted to the specification of valid endorsements, as outlined in Exhibits 159.151a–f. Accordingly, the final rule is changed to delete the listing of invalid endorsements for each class of mail.

Based on the proposed rule and consideration of the comments received, the Postal Service hereby amends the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1.), as follows:

PART III—[AMENDED]

1. The authority citation in 39 CFR Part III continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 122—DELIVERY ADDRESS

2. In Part 122, 122.17 is revised as follows:

122.17 Endorsements.

A mailer's specific instructions for forwarding mail (see 159.2), as well as requests for address correction service or return (see 159.3), must appear below the sender's return address. A full return address must be used with these endorsements. On letter-size mail, the information must appear in the upper left corner of the address side of the piece, directly below the return address; on other mail, the information must appear directly below the return address. Endorsements must be no smaller than 8 point Helvetica medium type or a manufacturer's generic equivalent. Endorsements must be printed so that they read in the same direction as the delivery address. There must be a clear space of at least ¼ inch both above and below the endorsement. An endorsement must stand out clearly against its background. A reasonable degree of color contrast (see 324.614 for acceptable specifications) must be maintained between the endorsement and the background of the mail piece. Black ink on a white background is strongly preferred, but other color combinations may be used. Brilliant colored envelopes and reverse printing are not permitted. See Exhibits 159.151a–f for specific mailer endorsements authorized for each class of mail. Mail bearing an endorsement that does not meet the requirements of this section and 159.151 will not be acceptable for mailing.

Examples

a. Frank B White, 2416 Front Street, St Louis MO 63135–1234
FORWARDING & RETURN POSTAGE GUARANTEED

b. Frank B White, 2416 Front Street, St Louis MO 63135–1234
ADDRESS CORRECTION REQUESTED

c. Frank B White, 2416 Front Street, St Louis MO 63135–1234
FORWARDING & RETURN POSTAGE GUARANTEED
ADDRESS CORRECTION REQUESTED

d. Frank B White, 2416 Front Street, St Louis MO 63135–1234
FORWARDING & ADDRESS CORRECTION REQUESTED

* * * * *

PART 159—UNDELIVERABLE MAIL

3. In Part 159, 159.151 is revised as follows:

159.15 Treatment of Undeliverable-as-Addressed Mail.

.151 Except as provided in 159.153, mail that is undeliverable as addressed may be forwarded, returned to the sender, or treated as dead mail, depending on the treatment authorized for that particular class of mail. A summary of the procedures for handling undeliverable as addressed mail is presented in Exhibits 159.151a–f. The chapters covering each class of mail contain more detailed provisions. A full return address must be used with these endorsements. On letter-size mail, the information must appear in the upper left corner of the address side of the piece, directly below the return address; on other mail, the information must appear directly below the return address. Endorsements must be no smaller than 8 point Helvetica medium type or a manufacturer's generic equivalent. Endorsements must be printed reading in the same direction as the delivery address. There must be a clear space of at least ¼ inch both above and below the endorsement. An endorsement must stand out clearly against its background. A reasonable degree of color contrast (see 324.614 for acceptable specifications) must be maintained between the endorsement and the background of the mail piece. Black ink on a white background is strongly preferred, but other color combinations may be used. Brilliant colored envelopes and reverse printing are not permitted. Mail bearing an endorsement that does not meet these requirements will not be accepted for mailing.

Note.—These requirements are to be applied only by trained acceptance personnel. Delivery personnel are not to make determinations about the correctness of endorsements. If mail, bearing an endorsement that does not meet these requirements, is accepted, the Postal Service will make reasonable efforts to honor the mailer's service request.

4. Exhibits 159.151a through 159.151f are amended as follows:

EXHIBIT 159.151a.—TREATMENT OF UNDELIVERABLE EXPRESS MAIL AND FIRST-CLASS MAIL, INCLUDING POSTAL AND POSTCARDS AND PRIORITY MAIL

Mailer endorsement	USPS action
No Endorsement	Forward at no charge (months 1–12). If undeliverable, return to sender with reason for nondelivery.
Address Correction Requested, or Do Not Forward.	Do Not Forward. Provide address correction or reason for nondelivery on mail piece. Return entire mail piece at no charge to sender.
Forwarding and Address Correction Requested.	Forward at no charge (months 1–12). If undeliverable, return to sender with reason for nondelivery attached at no charge. Charge the address correction fee if separate address correction is provided to mailer.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

EXHIBIT 159.151b.—TREATMENT OF UNDELIVERABLE SECOND-CLASS MAIL

Mailer endorsement	USPS action
No Endorsement	Forward at no charge for 60 days. After 60-day period, provide separate address correction or reason for nondelivery; charge address correction fee.
Return Postage Guaranteed.	Forward at no charge for 60 days. After 60-day period, return item to sender with new address or reason for nondelivery attached; charge the single piece third- or fourth-class rate.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

EXHIBIT 159.151c.—TREATMENT OF UNDELIVERABLE THIRD-CLASS BULK BUSINESS MAIL—WEIGHING 1 OUNCE OR LESS (FORWARDED UP TO 12 MONTHS)

Mailer endorsement	USPS action
No Endorsement or Do Not Forward.	No forwarding or return service is provided.
Address Correction Requested.	No forwarding service is provided. Return entire mail piece with address correction or reason for nondelivery; charge the first ounce single piece third-class rate, do not charge the address correction fee.
Forwarding and Return Postage Guaranteed.	Forward at no charge. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Forwarding and Return Postage Guaranteed, Address Correction Requested.[2]	Forward at no charge. If separate address correction notice is provided, charge the address correction fee. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Do Not Forward, Address Correction Requested, Return Postage Guaranteed.[3]	Do not forward. Return entire mail piece with the new address or reason for nondelivery; charge the first ounce single piece third-class rate; do not charge the address correction fee.

[1] The weighted fee is the appropriate single piece third-class rate multiplied by a factor of 2.733. The fee is used during months 1–12 when forwarding is unsuccessful and the mail piece is returned to the sender. During months 13–18 charge this fee on mail pieces endorsed *Forwarding and Return Postage Guaranteed* or *Forwarding and Return Postage Guaranteed, Address Correction Requested.*

[2] The authorized abbreviation for this endorsement is *Forward & Address Correction.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

[3] The authorized abbreviation for this endorsement is *Do Not Forward-Address Cor-Return Guar.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

EXHIBIT 159.151d.—TREATMENT OF UNDELIVERABLE THIRD-CLASS BULK BUSINESS MAIL—WEIGHING OVER 1 OUNCE (FORWARDED UP TO 12 MONTHS)

Mailer endorsement	USPS action
No Endorsement or Do Not Forward.	No forwarding or return service is provided.
Address Correction Requested.	No forwarding service is provided. Address correction is provided via Form 3547 or Form 3579; charge the address correction fee.
Forwarding and Return Postage Guaranteed.	Forward at no charge. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Forwarding and Return Postage Guaranteed, Address Correction Requested.[2]	Forward at no charge. If separate address correction notice is provided, charge the address correction fee. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Do Not Forward, Address Correction Requested, Return Postage Guaranteed.[3]	Do not forward. Return entire mail piece with the new address or reason for nondelivery; charge the appropriate single piece third-class rate; do not charge the address correction fee.

[1] The weighted fee is the appropriate single piece third-class rate multiplied by a factor of 2.733. The fee is used during months 1–12 when forwarding is unsuccessful and the mail piece is returned to the sender. During months 13–18 charge this fee on mail pieces endorsed *Forwarding and Return Postage Guaranteed* or *Forwarding and Return Postage Guaranteed, Address Correction Requested.*

[2] The authorized abbreviation for this endorsement is *Forward & Address Correction.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

[3] The authorized abbreviation for this endorsement is *Do Not Forward—Address Cor-Return Guar.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

EXHIBIT 159.151e.—TREATMENT OF UNDELIVERABLE THIRD-CLASS MAIL, SINGLE PIECE RATE (FORWARDED UP TO 12 MONTHS)

Mailer endorsement	USPS action
No Endorsement	No forwarding service is provided. Return the mail piece to the sender at the single piece third-class rate, with the reason for nondelivery or new address: do not charge the address correction fee.
Do Not Forward	No forwarding or return service is provided.
Address Correction Requested.	No forwarding service is provided. If the mail piece weighs one ounce or less, return the entire piece with the new address or the reason for nondelivery; charge the third-class single piece rate. Pieces over one ounce will receive an address correction notice via Form 3579 or Form 3547; charge the address correction fee.
Forwarding and Return Postage Guaranteed.	Forward at no charge. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Forwarding and Return Postage Guaranteed, Address Correction Requested.[2]	Forward at no charge. If separate address correction notice is provided, charge the address correction fee. If mail is not forwardable, return the entire mail piece with reason for nondelivery; charge the appropriate third-class weighted fee.[1]
Do Not Forward, Address Correction Requested, Return Postage Guaranteed.[3]	Do not forward. Return entire mail piece with the new address or reason for nondelivery; charge the appropriate single piece third-class rate, do not charge the address correction fee.

[1] The weighted fee is the appropriate single piece third-class rate multiplied by a factor of 2.733. The fee is used during months 1–12 when forwarding is unsuccessful and the mail piece is returned to the sender. During months 13–18 charge this fee on mail pieces endorsed *Forwarding and Return Postage Guaranteed* or *Forwarding and Return Postage Guaranteed, Address Correction Requested.*

[2] The authorized abbreviation for this endorsement is *Forward & Address Correction.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

[3] The authorized abbreviation for this endorsement is *Do Not Forward-Address Cor-Return Guar.* This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

EXHIBIT 159.151f.—TREATMENT OF UNDELIVERABLE FOURTH-CLASS MAIL INCLUDING PARCEL POST (FORWARDED UP TO 12 MONTHS)

Mailer endorsement	USPS action
No Endorsement	Forward locally at no charge, forward out of town postage due. If undeliverable or addressee refuses to pay postage, return mail piece with new address or reason for nondelivery; charge both forward (where attempted) and return postage
Do Not Forward, Do Not Return.[1]	No forwarding or return service is provided; mail piece is disposed of by the Postal Service.
Forwarding and Return Postage Guaranteed.	Forward locally at no charge, forward out of town postage due. If undeliverable or addressee refuses to pay postage, return mail piece with new address or reason for nondelivery; charge both forward (where attempted) and return postage.
Forwarding and Return Postage Guaranteed, Address Correction Requested.[2]	Forward locally at no charge; forward out of town postage due. If forwarded provide a separate address correction notice; charge address correction fee. If mail piece is undeliverable, or addressee refuses to pay postage, return mail piece with new address or reason for nondelivery; charge both forwarding (where attempted) and return postage.
Do Not Forward, Do Not Return, Address Correction Requested.[3]	No forwarding or return service is provided; provide a separate address correction notice; charge address correction fee; mail piece is disposed of by Postal Service.
Do Not Forward, Address Correction Requested, Return Postage Guaranteed.[4]	No forwarding service is provided; return mail piece with new address or reason for nondelivery; charge return postage.

[1] Mailers may continue to use the endorsements *Do Not Forward* which has been changed to *Do Not Forward-Do Not Return* and the *Address Correction Requested* endorsement until December 24, 1988, when a one year grace period expires.

[2] The authorized abbreviation for this endorsement is *Forward & Address Correction*. This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

[3] The authorized abbreviation for this endorsement is *Do Not Forward or Return-Address Cor*. This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

[4] The authorized abbreviation for this endorsement is *Do Not Forward-Address Cor-Return Guar*. This abbreviation is authorized in those limited situations where the full endorsement cannot be accommodated.

Notes.—These regulations apply to mail associated with a customer's change of address. Do not provide temporary change of address information at any time. When necessary, more than one line may be used to print the mailer endorsement.

PART 361—ADDRESSING

5. In Part 361, renumber 361.2, 361.3 and 361.4 as 361.3, 361.4 and 361.5 and add new 361.2 as follows:

361.2 Ancillary Service Endorsements.

Ancillary service endorsements must be those authorized in 159.151

PART 460—PREPARATION OF BULK RATE MAILINGS

6. In Part 460, add new 461 as follows:

461 Addressing.

The general procedures for addressing are contained in 122. Ancillary service endorsements must be those authorized in 159.151.

PART 661—ADDRESSING

7. In Part 661, the following sentence is added to 661.1: Ancillary service endorsements must be those authorized in 159.151.

PART 761—GENERAL REQUIREMENTS

8. In Part 761, amend 761.1 to read as follows:

761.1 Addressing.

.11 General. The general procedures for addressing are contained in 122.

.12 Ancillary Service Endorsement Requirements. Ancillary service endorsements must be those authorized in 159.151.

.13 ZIP Code. The address on all fourth-class matter mailed at bulk parcel post, bound printed matter, library, and special fourth-class rate must contain either the ZIP + 4 code or the five-digit ZIP Code.

.14 Return Address. The return address of the sender must be shown on all fourth-class mail.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88-10114 Filed 5-5-88; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3376-2]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Texas Lead Plan for El Paso County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This action announces EPA's final approval of revisions to the Texas State Implementation Plan (SIP) for lead for the El Paso area of the State, and announces EPA's approval of the Texas Lead SIP's National Ambient Air Quality Standards attainment date for El Paso County and for the limited area surrounding the ASARCO smelter in El Paso County. These revisions are to certain stack emission limits in Texas Regulation III, Subchapter B, titled Lead from Stationary Sources, Nonferrous Smelters in El Paso County. A modeling analysis using these revised emission limits now demonstrates attainment by modeling of the NAAQS for El Paso County. The rest of the Texas SIP was previously approved by EPA (except for the Dallas and El Paso part of the SIP) in a **Federal Register** notice published on October 4, 1983 (48 FR 45246).

EFFECTIVE DATE: This rule will become effective on June 6, 1988.

ADDRESSES: Copies of the SIP and EPA's evaluation report (EPA Evaluation Report for the Texas Lead SIP Revisions for the El Paso Area, March 1988) are available for public inspection during normal business hours at the following locations: EPA, Region 6, Library, 12th Floor, Allied Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202; Texas Air Control Board, 6330 Hwy 290 East, Austin, Texas 78723; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jim Callan, EPA, Region 6, telephone (214) 655-7214 or FTS 255-7214.

SUPPLEMENTARY INFORMATION: The pertinent background information concerning this final rule was presented in the proposed rulemaking which was published in the **Federal Register** on August 16, 1985 (50 FR 33069) and on September 28, 1987 (52 FR 36282). The 1987 proposed action was based upon the Texas Air Control Board (TACB) draft SIP revision submittal of January 8, 1987 and modeling submittal of May 15, 1987. EPA's review of the State's draft

submittals raised two concerns. The first concern is the potential impact of emissions from the zinc plant on ambient lead levels since these emissions were not considered in the May 15, 1987, modeling. The second concern is an inconsistency in the options used in the Industrial Source Complex (ISC) modeling. Both concerns are addressed in today's notice.

The September 28, 1987, **Federal Register** notice proposed approval of revisions to the El Paso County Lead State Implementation Plan (SIP) contingent upon resolution of the two aforementioned concerns. This proposal was published as a parallel process action whereby EPA received a draft revision from the State and proposed approval of this draft. Subsequently, on August 14, 1987, the State of Texas adopted these revisions and submitted them to EPA under an October 26, 1987, letter from the Governor. Modeling was revised to address the two concerns and was submitted by the TACB in March 1988. Since no substantive changes exist between the draft revision and the adopted revision, and all necessary revisions to the atmospheric dispersion modeling were made, and no substantive adverse comments were received during the public comment period, EPA today takes final action approving the revisions to the El Paso County Lead SIP.

TACB Regulation III, Subchapter B, Lead from Stationary Sources, Nonferrous Smelters in El Paso County, requires Reasonably Available Control Technology (RACT) measures for the smelting of lead, copper, and zinc to control lead emissions from fugitive sources and point sources (stacks). The Regulation III provisions ensure that: (A) All point sources (stacks) at ASARCO having the potential to emit significant quantities of lead have emission limitations requiring the use of RACT such as baghouses, electrostatic precipitators, or scrubbers, and (B) all significant sources of fugitive lead emission are controlled by RACT methods such as enclosure or local hooding of emission points with routing to a ventilation system, and paving, cleaning, wetting and/or chemical treatment of plant roads and open unpaved plant property. All point sources (stacks) at the smelter are equipped with RACT, including baghouses, electrostatic precipitators (ESP's), or ESP's followed by an acid plant.

The current modeling demonstration utilized both the Industrial Source Complex Model-Long Term (ISC–LT) and Valley-BID models. Fugitive emission rates modeled remained the same as in the previous SIP analysis. Stack emission rates were revised in the modeling analysis consistent with revisions in TACB regulation 113.71(1). Stack sampling also revealed differences in stack exit parameters from those used in the original SIP, and changes in the modeling parameters were made accordingly.

Air Quality Impact Analysis

The previous air quality analysis performed by the TACB showed that for most of El Paso County, Texas and for all affected areas in the State of New Mexico, which is across the Rio Grande River immediately to the northwest, the lead National Ambient Air Quality Standard would be attained and maintained by August 13, 1984. However, the previous modeling identified potential violations in an area conterminous to the smelter.

The lead air quality impact analysis which supports this demonstration of attainment and maintenance was separated into two evaluations based on the type of terrain. In other words, the model known as Valley was applied to assess ASARCO lead emission impact on those receptors in complex terrain areas, and the ISC–LT model was used for evaluating the lead air quality impact in the other areas surrounding the smelter.

EPA's proposed approval action of September 28, 1987 (52 FR 36282) required ASARCO to revise its ISC–LT modeling to conform with the guidance with respect to the UNAMAP 6 Version and to address the emissions from the zinc plant. TACB submitted this previous modeling on May 15, 1987. Specifically, this UNAMAP Version 6 of ISC–LT utilizes all three regulatory options: buoyancy induced dispersion (BID), stack-tip downwash, and final plume rise. Whereas ASARCO's preliminary modeling submitted May 15, 1987, incorporated the first option, it failed to utilize the latter two.

ASARCO reworked the ISC–LT modeling to include both the stack-tip downwash and final plume rise options in addition to BID. In addition, ASARCO included emissions at maximum operating capacity from its zinc plant in both the Valley model and the reworked ISC–LT in UNAMAP Version 6 model described above. TACB received a formal submittal of both model outputs from ASARCO on December 23, 1987. Therefore, the modeling analysis was evaluated based on the modeling guidelines in place on that date, i.e. EPA's Guideline on Air Quality Models (Revised) (July 1986). EPA's subsequent promulgated revisions to this guideline on January 6, 1988 (53 FR 392) were not considered for this modeling analysis submittal.

With addition of the zinc plant emissions, the use of the UNAMAP Version 6, and the lower emission limits required in Regulation III, no exceedance of the lead standard (1.5 micrograms/m3) is predicted in the area conterminous to the smelter.

Public Comment

One letter was received during the public comment period. This October 27, 1987, letter was from Brown, Maroney, Rose, Barber & Dye, attorneys for ASARCO, Inc. These comments were on behalf of ASARCO. These comments noted approval of EPA's action proposing approval of the El Paso County Lead SIP, but objected to EPA's requirement that the ISC–LT modeling be reworked. Additionally, this letter stated the conditions under which ASARCO would request a State board order enforcing permanent shutdown of the zinc plant. These objections are addressed below. Since the modeling, both Valley and ISC–LT, was performed again to include the zinc plant's emissions, the letter's comments regarding an enforceable shutdown are a moot point.

Comment: EPA required use of the ISC–LT regulatory options to include final plume rise, buoyancy induced dispersion, and stack tip downwash. The commenter argues that use of all three options is inconsistent and technically inferior to the method used by ASARCO's consultant.

Response: With the effective date of the *Guideline on Air Quality Models (Revised)*, EPA–450/2–78–027R, July 1986, the use of the regulatory option became recommended guidance in the application of the ISC–LT air quality model. The regulatory option includes consideration of buoyancy induced dispersion, stack tip downwash and final plume rise. Since ASARCO's lead modeling was prepared after this effective date, the regulatory option as coded in the UNAMAP Version 6 of ISC–LT should have been exercised for the sake of national consistency.

The *Guideline on Air Quality Models (Revised)* also provides procedures for demonstrating that deviations from modeling guidance, such as using the non-recommended options that ASARCO considers to be technically superior, are appropriate. Since ASARCO did not provide evidence of such a demonstration, the use of the recommended options is appropriate.

Comment: The commentor expresses concern that, to their knowledge, none

of the other three primary lead smelters in the county has been required to utilize all three options. He concludes that doing so for ASARCO—El Paso will not achieve consistency.

Response: As explained earlier, modeling of predicted ambient lead concentrations is to be conducted as per the current EPA modeling guidance. At the time ASARCO–El Paso was modeled, ISC–LT in UNAMAP Version 6 was the recommended model. The other three primary lead smelters referred to in the comments were modeled according to guidance in effect at that time.

Effects of Revision

This revision to TACB Regulation III and the El Paso Lead SIP changes only certain emission limits pertaining to stacks at the ASARCO facility. These changes result in a net reduction in the SIP's allowed lead emission rate limits. Modeling at these lower revised limits shows attainment of the NAAQS for lead based on 16 consecutive quarters of on site meteorological data and maximum plant operating rates, and typical operating parameter conditions. This revision demonstrates that the lead NAAQS around the ASARCO facility will be attained. As this is not a revision of the control technology, these revised limits were in effect immediately upon approval by the TACB. ASARCO is not committing to any additional controls, but is simply committing to lower emission limits.

Final Action

EPA is approving the State's request for a revision of the stack lead emission limits in the Texas Lead SIP for El Paso. With this approval of these tightened emission limits by the State and EPA, attainment of the NAAQS for lead is demonstrated by modeling for the limited area surrounding the ASARCO facility in El Paso County. Earlier modeling demonstrated attainment for all other areas. The Governor's request for a two year attainment date extension is now a moot point since the State has demonstrated attainment by August 1987 and therefore no further action by EPA is required on that request. This action announces EPA's approval of the part of the Texas Lead SIP for El Paso that was not previously approved on August 13, 1984 (49 FR 32184).

The Administrator hereby issues this notice setting forth EPA's approval of the request for a revision of the lead emission limits for the vent gas stacks in the Texas Lead SIP for El Paso, and announces EPA's approval of the demonstration of attainment by August 14, 1987, of the Texas Lead SIP for El Paso County and the limited area surrounding ASARCO. By this action, the entire lead SIP for El Paso is now approved.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1988. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).)

Incorporation by reference of the Texas State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Lead, Particulate matter, Incorporation by reference.

Dated: April 28, 1988.

Lee M. Thomas,

Administrator.

40 CFR Part 52, Subpart SS, is amended as follows:

PART 52—[AMENDED]

Subpart SS—Texas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2270 is amended by adding paragraph (c)(65) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(65) In a October 26, 1987, letter, the Governor of Texas submitted a revision to the Texas State Implementation Plan for Lead in El Paso County. These revisions to the control strategy are adequate to demonstrate attainment by August 14, 1987, of the National Ambient Air Quality Standards for lead in El Paso County by modeling. Enclosed in this letter were Texas Air Control Board (TACB) Board Order No. 87–14 as passed and approved on August 14, 1987; the revisions to Regulation III, Subchapter B as appended to the Board Order; and a certification of Public Hearing.

(i) Incorporation by reference

(A) TACB Board Order No. 87–14, as adopted on August 14, 1987.

(B) The March 23, 1988, letter and enclosures from TACB to EPA.

3. Section 52.2279 is amended by adding "f." to read "f. August 14, 1987." under Note 1, and by revising the third and fourth from the last entry in the table to read as follows:

§ 52.2279 Attainment Dates for National Standards.

* * * * *

Air Quality Control Region	Particulate Matter		Sulfur Oxides		Nitrogen Dioxide	Carbon Monoxide	Ozone	Lead
	Primary	Secondary	Primary	Secondary				
* * *	*	*	*		*	*		
El Paso-Las Cruces Almagordo Interstate (El Paso County only).....	1[c]	1[d]	b	b	a	1[c]	c	f
In City of El Paso, for an area immediately around ASARCO smelter, 0.5 km to the West and South, 2.0 to the North and East, and 1.5 km to the Southeast from the Smelter's copper stack								f
* * *	*	*	*		*	*		

Note 1:

* * * * * * * *

f. August 14, 1987.

* * * * * * * *

[FR Doc. 88–10214 Filed 5–5–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 271

[FRL-3375-6]

Maine; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Maine's application for final authorization.

SUMMARY: Maine has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Maine's application and has reached a final determination that Maine's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Maine to operate its program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Today, EPA is also publishing a compliance schedule for Maine to modify its program in accordance with 40 CFR 271.21(g) to adopt the Federal program modification.

EFFECTIVE DATE: Final authorization for Maine shall be effective at 1:00 p.m., on May 20, 1988.

FOR FURTHER INFORMATION CONTACT: Stanley Chin, ME and VT Waste Management Branch, U.S. EPA (HPR-CAN2), JFK Federal Building, Boston, MA 02203, telephone: (617) 573-5777.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) be "equivalent" to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6926(b)).

On February 8, 1985, Maine submitted an official application to obtain final authorization to administer the RCRA program. On August 13, 1987, EPA published a tentative decision announcing its intent to grant Maine final authorization. Further background on the tentative decision to grant authorization appears at 52 FR 30192, August 13, 1987.

Along with the tentative determination EPA announced the availability of the application for public comment and the date of a public hearing on the application if sufficient public interest in holding a hearing was expressed. After letters requesting a public hearing were received, a public hearing was held on September 16, 1987 in Augusta, Maine, and the public comment period ended at 5:00 p.m., on Wednesday, September 23, 1987.

II. Responsiveness Summary

Five oral comments, some supplemented in writing, and twelve written comments were received during the public comment period. EPA's responses to comments it has received are contained in the Responsiveness Summary. A copy of the Responsiveness Summary is available from the contact person listed previously. The significant issues raised by the commenters and EPA's responses are summarized below.

Comment: Many commenters asked what improvements have been made within the Maine Department of Environmental Protection (ME DEP) to (1) warrant final authorization and (2) create a more responsive attitude toward public participation?

Response: (1) Since January of 1986, when interim authorization for RCRA reverted to EPA, the ME DEP has made great strides to improve its hazardous waste management program. The ME DEP reorganized the Bureau responsible for the hazardous waste management program to better define responsibilities. New and additional staff were hired. EPA and the ME DEP developed multi-year strategies for permitting and compliance and enforcement. RCRA grant commitments for permitting, closure plan review, and inspections in FY'86 and FY'87 were met or exceeded by the ME DEP. For example, in FY'85, the ME DEP performed 24 RCRA inspections and finalized 3 Consent Agreements; in FY'87, the ME DEP performed 49 RCRA inspections and finalized 7 Consent Agreements. Quality of permits, closure plan review, inspections and enforcement actions improved. Communication between EPA and the ME DEP also improved. In FY'87, ME DEP and EPA initiated a monthly conference call to discuss compliance and enforcement issues. An additional monthly conference call will be added in FY'88 to discuss corrective action activities in the State. A more detailed description of the ME DEP's progress can be found in the Capability Assessment of Maine's application for final authorization. This Capability Assessment is available by request to the contact person listed earlier in this notice.

(2) Both EPA and the ME DEP welcome and encourage public participation in the RCRA process. Public participation by citizens and public interest groups have contributed to the strengthening of the Maine program. EPA will continue to work closely with the ME DEP to assure that the public is notified and involved as required under the RCRA process. ME DEP has implemented a citizen complaint log to assure that all complaints receive adequate followup. ME DEP maintains a mailing list to assure that all interested parties are informed of upcoming events and/or actions. EPA will also continue to conduct periodic reviews of the ME DEP to assure that all citizen complaints are addressed and resolved in a timely fashion. Finally, any official action taken by the ME DEP must be presented to and approved by the Board of Environmental Protection. The Board meetings are always open to the public for its input.

Comment: One commenter raised a number of questions focusing on three major issues: (1) What improvements have been made within the ME DEP to warrant final authorization, (2) what assurances do we have that commitments in the Letter of Intent will be carried out and (3) what role do citizens of Maine play in cooperating with the State to protect human health and the environment?

Response: (1) See previous EPA response above. (2) Both EPA and the ME DEP will make every effort to uphold the commitments set forth in the Letter of Intent. Maine's ability to run an authorized hazardous waste management program has been demonstrated by the improvements and the restructuring of the ME DEP. If commitments are not met for some reason (loss of staff, budget constraints, hiring freeze), EPA has other means to assure that all commitments are carried out. EPA can withhold federal funds under the annual RCRA grant from the State. In addition, EPA can overfile enforcement cases where the ME DEP has failed to take a timely and/or appropriate enforcement action. The ME DEP can also refer cases directly to EPA for action as it deems necessary. The EPA and ME DEP will continue to work closely after final authorization is granted to assure that the State's hazardous waste management program continues to be effective and commitments in the Letter of Intent are

met. Finally, pursuant to 40 CFR 271.23(b), if the State fails to administer a program in conformity with RCRA and the RCRA regulations, EPA can withdraw authorization from the State and revert the program back to EPA. (3) See previous EPA response above.

Comment: One commenter questioned which agency would oversee the corrective action at a facility in Saco, ME in the event final authorization is granted.

Response: Corrective action authority is contained in the Hazardous and Solid Waste Amendments of 1984 (HSWA) to RCRA. Today's determination does not authorize Maine to implement the HSWA. This authority will remain with EPA. EPA will continue to be the primary contact at this site after final authorization is granted. However, EPA will continue to work closely with both the ME DEP and the public concerning the corrective action at this site.

Comment: Seven commenters questioned whether the ME DEP had enough staffing to perform inspections and enforcement adequately at RCRA regulated facilities.

Response: EPA has performed periodic reviews of the State's performance in FY'86 and FY'87. Although staffing was previously a concern, the ME DEP's performance has shown that the State is capable of operating an adequate hazardous waste program. The State has also committed, through the Letter of Intent, to hire two additional staff persons. These additional staff will help fill needs in the areas of inspections/enforcement and hydrogeology. EPA will continue to encourage additional staffing increases to the State program.

Comment: Six commenters requested that another public hearing be held or the public comment period be extended because proper notice of this hearing was not adequate.

Response: The tentative determination for Maine's authorization was published in the **Federal Register** on August 13, 1987 (52 FR 30192). The notice was also published in Maine's largest circulating newspaper on four separate dates and sent to all interested parties on the ME DEP's mailing list. The public comment period was open from August 13, 1987 to September 23, 1987 and a public hearing was held on September 16, 1987 in Augusta, ME. EPA believes that there was sufficient time allowed for public comment. Therefore, an extension or an additional public hearing is not necessary.

Comment: Ten commenters requested that final authorization be denied. The commenters cited the ME DEP's action or inappropriate action at a commercial solid waste landfill in Norridgewock, ME as the reason for denial.

Response: Today's final determination authorizes Maine, specifically the ME DEP's Bureau of Oil and Hazardous Materials Control, to operate its hazardous waste management program under Subtitle C of RCRA in lieu of the federal hazardous waste management program. The landfill in Norridgewock, ME is not regulated under this program and is not affected by today's determination. The ME DEP's Bureau of Land Quality Control operates the solid (non-hazardous) waste program which oversees and regulates the landfill in Norridgewock.

Comment: Three commenters questioned the ME DEP's ability to regulate hazardous waste. The commenters cited the ME DEP's inaction at three CERCLA sites and two facilities emitting odors into the ambient air.

Response: Today's final determination authorizes the State to operate its hazardous waste management program under Subtitle C of RCRA in lieu of the federal hazardous waste management program. EPA is not authorizing the State to oversee corrective action at CERCLA sites. This authority will remain with EPA. Air emissions are regulated under the federal Clean Air Act.

Authority to regulate air pollution sources in the State has been delegated to the ME DEP's Bureau of Air Quality Control. This Bureau is directly responsible for responding to citizen complaints and inquiries concerning air pollution sources.

Comment: One commenter opposed authorization, alleging that Maine's fee schedule for the disposal of out-of-state waste discriminates against interstate commerce and therefore was an unconstitutional and unreasonable restriction on the free flow of hazardous waste.

Response: EPA has evaluated Maine's fee schedule under the standard set forth in 40 CFR 271.4(a), which requires that any aspect of the State program which "unreasonably restricts, impedes, or operates as a ban" on the free movement of hazardous wastes across the state border from or to other States be deemed inconsistent with the Federal program. RCRA Section 3006 requires that EPA authorize State programs unless EPA finds that they are: (1) Not equivalent, (2) not consistent, or (3) lacking adequate enforcement authority. The Agency has interpreted the term "consistent" in 40 CFR 271.4 to preclude authorizing state programs with unreasonable restrictions or impediments or bans on the interstate flow of wastes. EPA has stated that it regards this interpretation as supported by the Supreme Court's decision in *City of Philadelphia* v. *New Jersey*, 437 U.S. 617 (1978), which held unconstitutional a state statute banning transportation of certain wastes into the state for disposal because it violated the commerce clause of the Constitution (see 45 FR 33395, 33465–33466, May 19, 1980).

However, the Agency does not believe that it is required either by 40 CFR 271.4 or by RCRA Section 3006 to adjudicate the constitutionality of a state statute in the absence of any definitive judicial, decision applicable to the statute at hand.

In reviewing the Maine program for consistency under 40 CFR 271.4(a), EPA has undertaken an evaluation to determine as a factual matter whether the fees unreasonably restrict, impede, or operate as a ban on interstate waste shipments. However, it should be noted that this evaluation of the effects of the fee must be strictly hypothetical because, at the present time, there are no commercial hazardous waste treatment or disposal facilities within Maine's borders and no shipments of hazardous waste to which the fees would apply. Thus, the fee has no demonstrable present effect on interstate commerce. The only question is whether the fee might be discouraging companies seeking to locate commercial hazardous waste facilities in Maine.

To determine whether the fee imposes such an unreasonable restriction, EPA obtained data on the fee's hypothetical effects, and actual past effects, from the ME DEP. EPA also performed its own assessment of the fee's effects. This information is available for inspection in the Responsiveness Summary which is available from the contact person listed previously in this notice. Based on this review, EPA is convinced that the fee is not a significant discouraging factor to the siting of a commercial hazardous waste facility in Maine and that it is not an unreasonable restriction.

In 1982, Maine adopted its present double fee on out-of-state wastes. At that time, there was one operating commercial hazardous waste facility in Maine (Union Chemical, South Hope, ME) which was subject to the double fee statute. In 1981, the year before the fee was imposed, Union Chemical received 68% of its waste from out of state. In 1983 and 1984, the years following the adoption of the fee, the percentage of out-of-state waste received by Union Chemical was 61.3% and 76% respectively. In addition, Maine currently has two commercial waste oil facilities which operate under a similar doubling provision. While these

facilities were not in existence prior to the adoption of the double fee statute, they do indicate that the present effects of a doubling fee is not acting as a restriction or a ban on out-of-state waste. The percentage of out-of-state waste oil received by these facilities in 1986 and 1987 were as follows:

	1986 (percent)	1987 (percent)
Clean Harbors	73	77
Jetline	3	28

Clearly, these figures indicate that the doubling of the fee for out-of-state waste did not unduly restrict, impede, or operate as a ban on the flow of out-of-state waste to Union Chemical or the two waste oil facilities.

When analyzing the fee with respect to the overall costs of disposal of hazardous waste, the percentage increase ranges from 3.7% to 12.8% of the total disposal costs. In addition, New England presently does not have a commercial hazardous waste facility within its borders. If a commercial hazardous waste facility were to locate in Maine, it would be more economical for most generators in New England to dispose of its waste at the Maine facility even with the additional fee. This is true because the transportation costs to the present nearest facility (located in Buffalo, N.Y.) would be greater than the fee and transportation costs to Maine.

In addition, Maine contends that the State incurs additional administrative costs for out-of-state waste. The State is more likely to sample and analyze out-of-state waste because it has no knowledge of the generator's process and waste profile. The doubling fee is intended to defray these additional costs.

Moreover, the ME DEP has agreed to waive the fee for wastes originating in states which agree to provide reciprocal treatment to waste originating in Maine. Region I believes that it should be likely that in the event of the establishment of a permitted facility in Maine, Maine should be able to obtain reciprocity with most neighboring states. As a result, the incremental burden imposed by the fee would be minimal.

Therefore, the Agency is making a final determination that the Maine fee schedule does not impose an unreasonable impediment or restriction or operate as a ban on the free movement of hazardous waste under 40 CFR 271.4.

Notwithstanding, the Agency recognizes that the issue of discriminatory fees is difficult and complex. The Agency is currently undertaking an indepth examination of the issue. EPA is considering changes to 40 CFR 271.4. In the anticipated regulatory revision, EPA intends to further clarify its existing approach toward: the differences between fees and restrictions imposed by States that impede waste flow or affect waste treatment, storage or disposal capacity or facility siting, etc.; the level of scientific or legislative justification that States will have to provide to demonstrate that restrictions have an environmental basis; and, the degree to which economic inviability causes the fees or restrictions to act as prohibitions on waste transport or treatment, storage or disposal.

III. Limitations

Maine's hazardous waste regulatory program is broader in scope than is the Federal program, in that the State lists as hazardous wastes "* * * any chemical substances and combination of substances that contain 50 parts per million (on a dry weight basis) or greater of PCBs * * *", with certain exclusions. Such wastes are not regulated by the EPA under the RCRA program. In accordance with 40 CFR 271.1(i), state-imposed requirements which are beyond the coverage of the Federal program are not part of the Federally-approved program. Therefore, EPA approval of Maine's hazardous waste program does not include the State's PCB regulation. Also pursuant to 40 CFR 271.1(i), the State may adopt or enforce requirements which are more stringent than the Federal requirements. In either case, the State may adopt and enforce programs that are either broader in scope or more stringent than the Federal program while remaining consistent with and equivalent to the Federal program under RCRA for the purpose of program authorization.

During the program reversion period, Maine did not issue any State hazardous waste permits and EPA did not issue any RCRA permits. Maine will administer the three RCRA permits it issued during Phase II interim authorization.

Maine is not authorized by the Federal government to operate the RCRA program on Indian lands. This authority remains with EPA.

Today, EPA is publishing a compliance schedule for Maine to obtain the program revision for the following Federal program requirement: 40 CFR 264.113—Time allowed for closure.

Maine has agreed to obtain the needed program revision according to the following schedule:

1. Public notice—June 15, 1988.
2. Approval by Board of Environmental Protection—September 15, 1988.
3. Regulation promulgated—October 31, 1988.

Maine expects to submit an application to EPA for authorization of the above mentioned program revision by December 31, 1988.

In November of 1986, Maine adopted changes to its regulatory program to meet the requirements of non-HSWA Cluster I. Maine expects to submit an application to EPA for the non-HSWA Cluster I program revision 60 days after the effective date.

IV. Decision

After reviewing the public comments and the changes the State has made to its application and program since the tentative decision, I conclude that Maine's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Maine is granted final authorization to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984) (HSWA). In accordance with 40 CFR 271.21(e)(1)(i), official State applications shall be reviewed on the basis of Federal self-implementing statutory provisions that were in effect twelve months prior to the State's submission of its official application and the regulations in 40 CFR Parts 124, 260–266, 270, and 271 that were promulgated twelve months prior to the State's submission of its official application. In addition, a State may receive final authorization for any provision of its program corresponding to a Federal provision in effect on the date of the State's authorization. Therefore, Maine is receiving final authorization for its program corresponding to any Federal self-implementing statutory provisions that were in effect on February 8, 1984 and changes to the Federal regulatory program promulgated up to February 8, 1984 as well as for the technical amendment issued on November 21, 1984 (49 FR 46094).

Maine now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program, subject to the limitations on its authority imposed by the HSWA. Maine also has primary enforcement responsibility, although EPA retains the right to conduct any activity under Section 3007 of RCRA and

to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

As stated above, Maine's authority to operate a hazardous waste program under Subtitle C of RCRA is limited by the November 1984 HSWA to RCRA. Prior to that date a State with final authorization administered its hazardous waste program entirely in lieu of the EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial Federal permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Maine. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. Where HSWA-related requirements apply, however, EPA will administer and enforce these portions of the HSWA in Maine until the State receives authorization to do so.

Any State requirement that is more stringent than an HSWA provision also remains in effect; thus, the universe of the more stringent provisions in the HSWA and the approved State program define the applicable Subtitle C requirements in Maine.

Maine is not being authorized now for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time the State may assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Maine's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Inter-governmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 31, 1988.

Michael R. Deland,

Regional Administrator.

[FR Doc. 88–10079 Filed 5–5–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 400

[OMB–14–F]

Medicare and Medicaid Programs; OMB Control Numbers for Collection of Information Requirements Contained in HCFA Regulations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule and correction notice.

SUMMARY: This final rule amends a general HCFA regulation that displays control numbers assigned by the Office of Management and Budget (OMB) to approved "collection of information" requirements contained in regulations governing the Medicare and Medicaid programs. It also corrects for consistency the regulation section citation given in 52 FR 30362 for which OMB approval was obtained.

This rule is issued in accordance with OMB regulations for controlling paperwork burdens on the public and serves as notice that the cited collections of information are approved.

EFFECTIVE DATES:

1. For revisions to 42 CFR 400.310, May 6, 1988.

2. For correction, September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Maxine Turnipseed, (301) 966–1981.

SUPPLEMENTARY INFORMATION:

General Information

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), Federal agencies are required to obtain Office of Management and Budget (OMB) approval of "collection of information" requirements that are contained in any regulations published by the agencies. To implement provisions of this Act, OMB has established regulations under Part 1320 of title 5 of the Code of Federal Regulations (CFR). The OMB regulations require Federal agencies (1) to notify the public that a collection of information requirement has been approved by OMB by issuing a notice in the **Federal Register**, and (2) to display the control number assigned by OMB after approval of the requirement as part of the agency's regulatory text.

To comply with the OMB requirement that HCFA include in its regulations the OMB control numbers assigned, we have established a general regulation under 42 CFR 400.310 to display valid OMB control numbers and applicable regulation sections as a means of notifying the public that the information collection requirements have been approved. We update this regulation routinely to add the most recent OMB control numbers or to delete entries that are no longer in effect.

Provisions of These Regulations

In the preamble of final rules containing information collection requirements, we identify sections of the regulations for which we requested assignment of an OMB control number. Control numbers have been assigned for the following documents published in the **Federal Register**:

Appeals Procedures for Determinations That Affect Participation in Medicare (52 FR 22444, June 12, 1987), Sections 498.22, 498.40, 498.58 and 498.82.

Hospice "Core" Service' Nursing (52 FR 7412, March 11, 1987), Section 418.83.

Income and Eligibility Verification Procedures for Food Stamps, Aid to Families with Dependent Children, State Administered Adult Assistance, Medicaid and Unemployment Compensation Programs (51 FR 7178, Feb. 28, 1986), Sections 431.17, 431.306, 435.910, 435.919, 435.920, 435.940, 435.945, 435.948, 435.952, 435.955, 435.960 and 435.965.

Intermediate Sanctions for Long-Term Care Facilities (51 FR 24484, July 3, 1986), Section 442.118.

End-Stage Renal Disease Program and Redesignation of Networks and Reorganization of Network Organizations (51 FR 30356, Aug. 26, 1986), Section 405.2112. (This section already appears in § 400.310, but it now contains new information collection requirements.) The preamble to this rule also identified § 405.2136 as requiring approval; however, it already had approval and has since then been reapproved.

Identification of Third Party Liability Resources for Medical Assistance (52 FR 5967, Feb. 27, 1987), Sections 431.306, 433.138, 435.945 and 435.960.

We also submit for OMB approval information collection requirements that we identify in existing regulations. After the approval is obtained, we publish in the **Federal Register** whether the action is a new approval or reapproval. (Before May 2, 1983, it was not necessary to publish OMB control numbers in agency regulations (5 CFR 1320.2); hence, occasionally an item will be identified for inclusion in our table at § 400.310 based on an OMB reapproval action. Also, ordinarily a reapproval item retains its original control number. This is not always the case and some of our information collection have been assigned two control numbers.)

We are adding the following approved and reapproved items to § 400.310 based on this process:

Approved: Sections 405.2138, 405.2140, and 405.2171 (52 FR 4662)

Reapproved: 405.2123, 405.2136, 405.2137, 405.2139 (52 FR 4662)

We have also determined that the following sections, which were formerly approved, no longer have paperwork requirements and thus are deleting them from § 400.310: Sections 405.2111, 405.2113, 405.2114, and 405.2134. (Sections 405.2111 and 405.2114 have been deleted in their entirety from the Code of Federal Regulations.)

Correction

On August 14, 1987, we published a final rule on payment adjustments for sole community hospitals (52 FR 30362). In it, we amended 42 CFR 400.310 to show that OMB had approved the information collection requirements in § 412.92(f). In keeping with our recently instituted policy of not including paragraph designations in § 400.310, we are correcting § 400.310 to delete the "(f)" in the citation for § 412.92.

Waiver of Proposed Rulemaking and Delay In Effective Date

This regulation and correction notice merely update our display of OMB control numbers for approved collection of information requirements contained in HCFA regulations and correct a previously published preamble. They are technical in nature. To publish either in proposed form is unnecessary and would serve no useful purpose. Therefore, we find good cause to waive notice of proposed rulemaking.

We are publishing this final rule without the usual 30-day delay in effective date. The rule is technical in nature, and it is unnecessary and would serve no useful purpose to delay the effective date beyond the date of publication. Therefore, we find good cause to waive a delay in effective date.

Impact Analysis

As noted above, this regulation is technical in nature and merely updates the display of OMB control numbers of approved collection of information requirements contained in HCFA regulations. Therefore, the Secretary has determined that this document does not meet the criteria for a major rule as defined in section 1(b) of Executive Order 12291. In addition, the Secretary certifies, consistent with the Regulatory Flexibility Act, that this document would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 400

Grant programs-health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 400 is amended as follows:

PART 400—INTRODUCTION: DEFINITIONS

1. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is revised to read as follows:

§ 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control numbers
403.232, 403.239–403.258	0938–0264
403.304, 403.306, 403.312, 403.316, 403.318 and 403.320–403.322	0938–0473
405.165, 405.170	0938–0454
405.262	0938–0267
405.334, 405.336	0938–0465
405.481	0938–0285
405.552	0938–0285
405.1121–405.1128, 405.1136, 405.1137	0938–0364
405.1201, 405.1202, 405.1221, 405.1223–405.1226, 405.1228, 405.1229	0938–0365
405.1315, 405.1317	0938–0368
405.1413, 405.1414, 405.1416	0938–0338
405.1627, 405.1629	0938–0308
405.1632	0938–0454
405.1716, 405.1717, 405.1720, 405.1721, 405.1722, 405.1725, 405.1736	0938–0336
405.2112, 405.2123, 405.2136–405.2140, 405.2171	0938–9386
412.44	0938–0445
412.71	0938–0288
412.92	0938–0308 and 0938–0477
412.118	0938–0337 and 0938–0456
413.30	0938–0337
416.47	0938–0266
417.412–417.414, 417.418, 417.424, 417.426, 417.428, 417.430, 417.432, 417.436, 417.444, 417.446, 417.454, 417.460, 417.474, 417.476, 417.478, 417.480, 417.481, 417.486, 417.488, 417.492, 417.494, 417.520, 417.522, 417.532, 417.548, 417.560, 417.566, 417.568, 417.570, 417.572, 417.576, 417.586, 417.592, 417.594, 417.596, 417.598, 417.604, 417.608, 417.616, 417.620, 417.624, 417.632, 417.650, 417.662, 417.690, 417.801, 417.808, 417.810	0938–0406
418.22, 418.26, 418.56, 418.58, 418.70, 418.74, 418.83, 418.100	0938–0302 and 0938–0476
431.17	0938–0467
431.56	0938–0295
431.306	0938–0467 and 0938–0502
431.630	0938–0445
431.800	0938–0431
432.50	0938–0459
433.112	0990–0058 and 0938–0247
433.116	0938–0247 and 0938–0442

Sections in 42 CFR that contain collections of information	Current OMB control numbers
433.117	0990-0058 and 0938-0247
433.138	0938-0502
433.139	0938-0459
434.6-434.20, 434.23-434-27, 434.30, 434.32, 434.36, 434.50, 434.53, 434.55	0938-0326
435.910, 435.919, 435.920, 435.940	0938-0467
435.945	0938-0467 and 0938-0502
435.948, 435.952, 435.955	0938-0467
435.960	0938-0467 and 0938-0502
435.965	0938-0467
441.56, 441.58, 441.60, 441.61	0938-0354
441.255-441.259	0938-0481
441.301	0938-0449
441.302	0938-0266 and 0938-0449
441.303	0938-0272 and 0938-0449
442.118	0938-0488
442.307, 442.308, 442.309, 442.311, 442.313, 442.314, 442.316, 442.319, 442.320	0938-0370
442.402, 442.404-442.407, 442.412, 442.413, 442.417, 442.421, 442.423-442.425, 442.427, 442.430, 442.434, 442.441, 442.443, 442.457, 442.460, 442.463, 442.466, 442.468, 442.475, 442.482-442.487, 442.490, 442.492, 442.497, 442.500-442.503, 442.505, 442.506, 442.512	0938-0366
447.30	0938-0067
447.31	0938-0287
447.53	0938-0429
447.253(a)	0938-0193
447.255	0938-0193
456.654	0938-0445
466.70, 466.72, 466.74, 466.78, 466.80, 466.94	0938-0445
473.18, 473.34, 473.36, 473.42	0938-0443
474.36, 474.38-474.40	0938-0444
476.104, 476.105, 476.116, 476.134	0938-0426
482.12, 482.22, 482.27, 482.30, 482.41, 482.53, 482.56, 482.57 and 482.60-482.62	0938-0328
488.56, 488.60, 488.64	0938-0267
498.22, 498.40, 498.58, 498.82	0938-0508

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 16, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: April 8, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-10083 Filed 5-5-88; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6675

[NM-940-08-4220-10; NM NM 66022]

Withdrawal of Public Land for Protection of Recreational Values Along the Rio Grande; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 264.39 acres of public land from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect, preserve, and maintain existing and future recreational values located along the "Pilar" section of the Rio Grande. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Clarence Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6554.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, to protect two sites important for recreational use on the Rio Grande:

New Mexico Principal Meridian

County Line Site

T. 23 N., R. 10 E.,
Sec. 14, lot 4;
Sec. 15, lot 4.

Fishing Hole Site

T. 24 N., R. 11 E.,
Sec. 32, lots 5, 6, 7, 8, SW¼SE¼.

The areas described aggregate 264.39 acres in Taos and Rio Arriba Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

May 3, 1988.

James W. Ziglar,

Assistant Secretary of the Interior.

[FR Doc. 88-10087 Filed 5-5-88; 8:45 am]

BILLING CODE 4310-FB-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62, 65, 70, and 72

National Flood Insurance Program; Flood Plain Management Standards

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program (NFIP) regulations dealing with: flood plain management standards; criteria for the identification of coastal high hazard areas, more commonly referred to as V-zones, and delineated as Zone V, VO, V1-30 or VE on NFIP maps; requirements for maintenance of altered watercourses; criteria under which communities may permit flood plain and floodway developments which could increase base flood elevations; procedures for map correction; reimbursement procedures for the review of proposed projects to determine if they would qualify for NFIP map revisions upon their completion; and changes in the Standard Flood Insurance Policy (SFIP) terms and provisions.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472; telephone number (202) 646-3422.

SUPPLEMENTARY INFORMATION: On November 3, 1987, FEMA published for comment in the **Federal Register** (Vol. 52, page 42117) a proposed rule containing revisions to the NFIP which were the result of a continuing reappraisal of the NFIP to achieve greater administrative and fiscal effectiveness in the operation of the program and to encourage sound flood plain management so that reductions in loss to life and property and in disaster expenditures can be realized. This reappraisal included the risk assessment (i.e., mapping of flood hazard areas) component of the NFIP, the loss

reduction (i.e., flood plain management) component and the claims, coverage, rating and sale of insurance component of the NFIP.

In the process of developing this final rule 32 comments were received, logged and analyzed based on the 7 subject areas discussed in the proposed rule supplementary information. The tally of comments included 1 individual, 17 representatives of private companies, 3 associations (including one on behalf of three associations), 4 local governments and 7 State governments. Many of the comments generally concurred with the proposed rule while specifically addressing one or more of its provisions. The comment contents ranged from strong support for, to strong opposition to, one or more of the proposed changes.

The analysis of the comments resulted in language clarification, a minor change to the numbering of provisions and, due to editorial oversight in the proposed rule, inclusion of changes to §§ 60.3(d) and 60.3(e) to incorporate appropriate cross references for consistency. Also, the Standard Flood Insurance Policy duplicate policy provision in the proposed rule was revised to make it more flexible. The comments received are addressed under the subject headings below.

Community Ordinances

Two commentators expressed a general concern that the final rules will require corresponding changes in community ordinances. In fact, the final rules are primarily procedural and will not require ordinance revisions at the local level. However, the new provisions at §§ 60.3(c)(13) and 60.3(d)(4), requiring a community to apply to FEMA for a conditional Flood Insurance Rate Map (FIRM) revision prior to permitting development or encroachments within the special flood hazard areas or within the regulatory floodway that would result in an increase in base flood elevations exceeding NFIP's standards, are voluntary and need only be adopted by a community if it wishes to permit such development. FEMA believes these situations should affect relatively few communities.

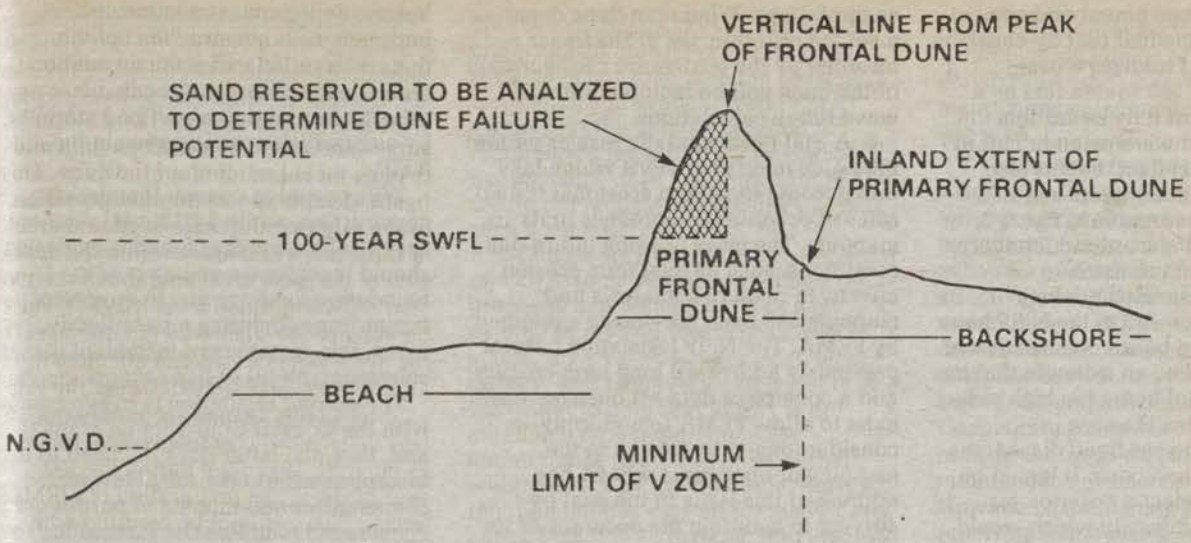
As for the final rule amending § 60.3(d)(3) which specifies use of hydraulic and hydrologic analyses in connection with a community's review of proposed development in floodways, this requirement is a clarification of the meaning implicit in the current regulations and, therefore, local ordinances do not need to be changed to reflect this clarification.

Coastal High Hazard Area and Erosion Considerations for Sand Dunes

Six commentators addressed this proposed rule and all expressed general support for including primary frontal dunes in V-zones and considering dune erosion during the base flood event in order to better reflect coastal areas actually at risk. However, clarification of the intent of the final rule is necessary to resolve apparent misunderstandings of the proposed rule as expressed by several of the commentators.

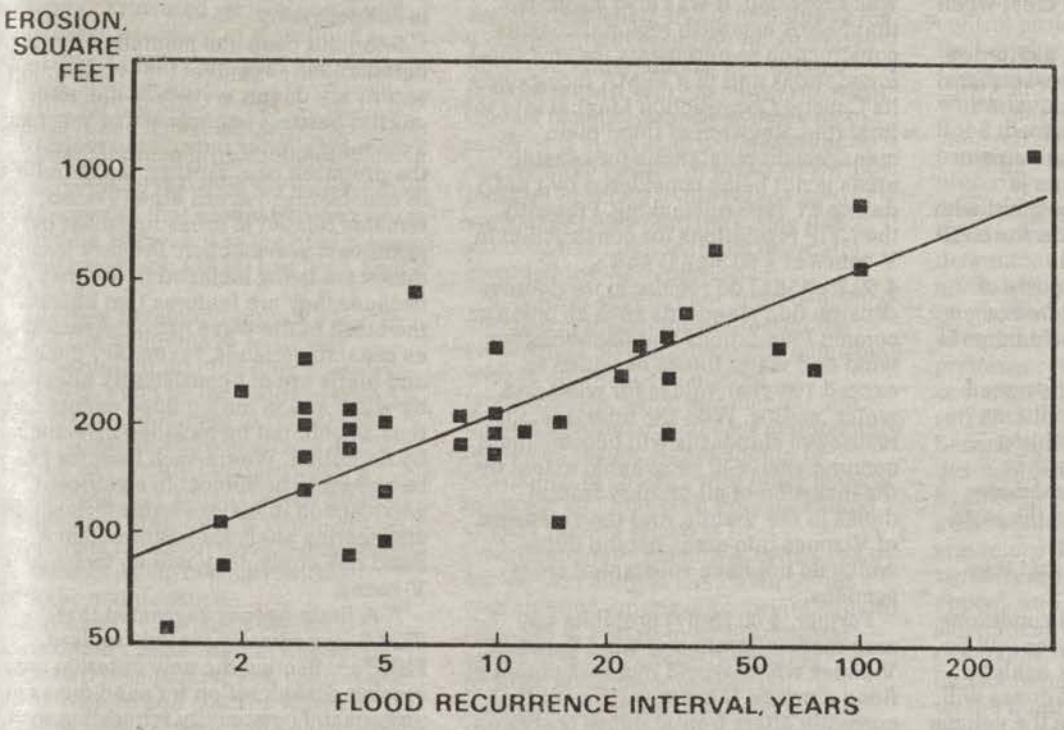
The final rule definition of coastal high hazard area includes all primary frontal dunes. Therefore, the boundary line of the V-zone, at a minimum, becomes the landward "toe" of the dune. Figure 1 clarifies the evaluation criterion for considering such dunes as effective barriers to base flood storm surges and associated wave action and depicts the inland limit of the dune. This figure also illustrates another provision of the rule that the cross-sectional area of the dune, as measured from the ocean side of the dune crest and above the 100-year stillwater flood level (SWFL), must be at least 540 square feet in order for the dune to be considered effective in attenuating wave action. Under the rule all dunes with a cross-sectional area less than 540 square feet will be treated as completely eroded during the 100-year storm in the preparation of FIRMs. Such a dune will not be credited with offering any protection against flooding or wave action to areas on the landward side of that dune. For dunes with a cross-sectional area smaller than 540 square feet, the methods used to determine areas subject to wave action will be employed as if the dune did not exist. Conversely, any dune with a cross-sectional area greater than 540 square feet may not be totally destroyed during the 100-year event and the dune will be credited with offering some level of protection to areas on its landward side. In this case, the method used to determine areas subject to wave action will be employed in conjunction with a dune erosion model which predicts how much of the dune will be eroded and how much protection it provides.

BILLING CODE 6718-01-M



FACTORS TO BE CONSIDERED IN DETERMINING DUNE FAILURE POTENTIAL AND V ZONE MAPPING

FIGURE 1



MEDIAN CROSS-SECTIONAL EROSION ABOVE FLOOD ELEVATION VERSUS FLOOD RECURRENCE INTERVAL BASED ON 38 CASES OF DUNE RETREAT DURING VARIOUS COASTAL STORMS.

FIGURE 2

BILLING CODE 6718-01-C

1. One State government and one association commented that by choosing the 50 percentile (median) cross-sectional area of 540 square feet as a criterion, FEMA has, by definition, underestimated dune erosion in half of all base (100-year) flood events (see figure 2). The commentators suggested using the 90–95 percentile in figure 2, which represents a cross-sectional area of 1,000 square feet or more.

The risk analysis methodology decisions incorporated in the NFIP have traditionally been based on selection of a median value, i.e., an estimate that has an equal chance of being too high or too low. Such has been the case in estimation of 100-year flood discharges and base flood elevations. It would be inconsistent to select a criterion for evaluating dune integrity which would overestimate dune erosion more than 50% of the time. Further, a value other than the median value would be inequitable in the determination of actuarial insurance rates.

In addition, dunes that meet the cross-sectional criteria of 540 square feet will not necessarily be considered as providing total protection from the 100-year flood. A post-flood eroded profile of the dune will be considered in computing wave runup on the dune face and overtopping on the dune crest when appropriate.

It is important to note that a criterion of 540 square feet for the cross-sectional area above the storm surge elevation and seaward of the dune crest represents a dune of significant size. FEMA believes use of this area is appropriate because it is consistent with other median values utilized in the NFIP and is based on an empirical relationship between the quantity of sand that would be removed from a frontal dune and the recurrence interval of the local storm tide.

2. Several commentators expressed concern that site-specific conditions should be analyzed in determining potential dune erosion rather than adopting a criterion for general dune integrity. FEMA has assessed the state-of-the-art in erosion modeling approaches and determined that they are not always effective in differentiating between local conditions. Moreover, site specific analyses will be considered in each flood risk analysis performed. Measurements of dunes will be taken locally to determine the volume of sand in the dune and whether the dune meets the 540 square feet criterion. Where the dune does not meet the 540 square feet criterion, site specific conditions will be considered in estimating a post-storm dune profile for wave runup and overtopping computations. Where the dune does meet the criterion, the protection afforded by the post-storm configuration of the dune will be factored into the wave runup calculations.

3. A State commentator suggested that FEMA develop provisions which take into account long-term erosional retreat rates of oceanfront shorelines in its mapping. The issue of using future risk conditions, such as long-term erosion effects, in flood risk analysis and mapping has been previously examined by FEMA. The NFIP legislation has not previously addressed long-term erosion and a consistent data set does not now exist to allow FEMA to uniformly consider long-term erosion in the mapping of flood risks. FEMA has addressed this issue in the past by striving to maintain the accuracy of its maps through periodic map revisions. Additional efforts in erosion risk analysis and management will be forthcoming as FEMA implements the provisions of section 544 of the Housing and Community Development Act of 1987 pertaining to erosion.

4. Several associations and a State agency commented that FEMA should incorporate restrictive building requirements in areas subject to wave action. Language to amend § 60.3(e)(7) was suggested. It was also suggested that FEMA establish regional coastal construction requirements for structural foundations and that FEMA incorporate its Coastal Construction Manual into the final rule. Revision of flood plain management regulations for coastal areas is not being considered by FEMA during FY 1988 rulemaking. Presently, the NFIP regulations for construction in V-zones at § 60.3(e)(4) and § 60.3(a)(5)(ii) do require more rigorous construction standards such as piling or column foundations and anchoring for wind and water forces designed to exceed 100-year values for wind and water loading. With the final rule, these restrictive standards will become more comprehensive in geographic extent by the inclusion of all primary frontal dunes in the V-zone, and the extension of V-zones into areas behind dunes which do not have substantial cross sections.

Further, § 60.3(e)(7) prohibits any man-made alteration of sand dunes in V-zones which would increase potential flood damage. Most development that currently alters frontal dunes occurs on dunes mapped as outside the V-zone. The final rule incorporates all primary frontal dunes into the V-zone and thereby makes § 60.3(e)(7) much more encompassing and effective in protecting the integrity of frontal dune systems. It is envisioned that, as new V-zone delineations are established under the rule, construction activity (e.g., excavation and grading) which would jeopardize the integrity of primary frontal dunes will be prohibited by communities participating in the NFIP.

With regard to coastal foundation construction, while § 60.3(e)(4) does not specifically state that foundation design should incorporate an increase in foundation loadings due to erosion of supporting soil during a base flood event, this requirement is implicit in subparagraph (ii) of this section.

The current regulation is in agreement with the Coastal Construction Manual and, thus, the latter does not need to be incorporated into the rule. However, communities and interested parties are encouraged to utilize the manual for additional design considerations. Further, FEMA recognizes and encourages those local and State governments that wish to adopt more restrictive requirements than FEMA's standards to do so.

5. Another State suggested that FEMA include a definition in the rule for "alterations of sand dunes." FEMA believes the term, "man-made alteration of sand dunes" as used in § 60.3(e)(7), is self-explanatory; therefore, a definition is not necessary.

6. A joint comment submitted by three associations suggested that bluffs, secondary dunes, wetlands and other coastal barriers be included in V-zones. This suggestion is outside the realm of the proposed rule. Further, the definition of coastal high hazard area (V-zone) remains related to areas impacted by significant wave action. Primary frontal dunes are being included in V-zones because they are features that absorb the brunt of the wave action. Areas such as coastal wetlands, secondary dunes, and bluffs are not consistently affected by wave action during flood events and, thus, should not be included in V-zones by definition. Where such features can be shown to be subject to significant wave action in major storms through the engineering analyses performed in a flood risk study, they will be included in V-zones.

7. A State agency suggested that FEMA immediately provide revised FIRM's reflecting the new criterion for erosion consideration for sand dunes to any coastal community requesting such a revision, rather than waiting to incorporate the changes in new flood risk assessment studies or restudies. It is FEMA's intention to eventually revise all FIRM's where the V-zones may be presently underestimated. These revisions must be processed through the

normal map revision procedures rather than by special restudy effort because of current budgetary constraints. Priorities for performing map updates through the restudies and revisions procedures for communities impacted by the new erosion criteria will be based on cost/benefit considerations, as is presently the case with determining priorities for other types of restudies. A community's need for revised V-zone mapping will be a factor in determining its priority. Where costs can be reduced through local cost-sharing, or other approaches, adjustments in priority will be made.

Requirements for Maintenance of Altered Watercourses

Seven commentators addressed this proposed rule including three State governments, two local governments and two associations. Four commentators generally supported the rule but proposed modifications or substitute language; one commentator did not directly address the issue; and two commentators objected to the proposed rule, citing problems with access to private property, cost and legal liability associated with mandatory maintenance.

1. Two local governments and two associations pointed out that not all altered or relocated watercourses will require maintenance of their flood carrying capacity by virtue of their design. They asserted that the design criteria for a watercourse may include factors that account for regrowth of vegetation, sediment deposition, etc., thus obviating the need for maintenance. FEMA agrees that such situations should be addressed in the final rule and a new paragraph (a)(13) has been added to § 65.6.

The new paragraph provides that in lieu of the requirement to submit documentation that the provisions of § 60.3(b)(7) will be met prior to FEMA's revising the NFIP map to reflect the flood hazard mitigation effects of the altered or relocated watercourse, a community may submit certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

2. A local government and an association suggested that altered or relocated watercourses on open space areas such as golf courses where no existing development will be impacted should be exempted from the maintenance requirement. FEMA's concern in this rule deals only with the maintenance of modifications of watercourses for which flood control benefits have been reflected or are proposed to be reflected on flood maps. This is very rarely, if ever, the case in undeveloped areas. Further, if a map revision is not sought on the basis of watercourse alteration, then FEMA agrees that the data submission requirement regarding watercourse maintenance does not apply and FEMA would not request a community to make such a submission.

3. Comments from a local government and an association suggested that the proposed amendments to § 65.6 be deleted or revised due to problems of access to private property, cost, legal liability and environmental impacts. It is important to note that FEMA is not creating a new requirement for maintenance of altered or relocated watercourses by the final rule. Such a requirement has existed for many years under § 60.3(b)(7). Instead, the final rule merely establishes a procedure whereby FEMA can verify that maintenance, where appropriate, will be carried out for new watercourse alterations for which map revisions are being sought. The final rule enables FEMA to obtain documentation as to the nature of the maintenance activities to be performed, the frequency with which they will be performed, and the title of the local official who will be responsible for assuring that the maintenance activities are accomplished. If it is prohibitive for a community to maintain its altered or relocated watercourses (for whatever reason), FEMA will not credit the flood control benefit of those projects on its maps. It is up to each community to evaluate the benefit of lower BFE's and reduced Special Flood Hazard Areas versus the costs of maintaining its watercourse modifications originally intended for these purposes.

4. A local government, a State agency and two associations addressed the environmental considerations connected with maintenance of altered watercourses. Some commented that implementation policies for maintenance of altered watercourses should be developed in concert with other Federal agencies and that such policies should specify criteria which is environmentally sensitive. While FEMA agrees that there is a need for better coordination among appropriate Federal agencies in regard to environmental issues and the Federal permitting process in connection with the maintenance of altered watercourses, the final rule is not the appropriate mechanism by which to address these issues. Further, it is unlikely that situations will arise where the alteration of watercourses for flood control purposes would be permitted, but maintenance of such alterations would not. Should such situations occur, then FEMA will not revise the map to reflect the mitigating effects of the altered watercourse and, therefore, no maintenance responsibilities will be imposed.

5. A State government and an association suggested that FEMA should require communities to report periodically regarding their maintenance activities and the continued effectiveness of their altered watercourses. FEMA agrees with the concept of monitoring community compliance with this requirement and is considering modification of the Community Assistance Visit Program to include elements relative to the maintenance of altered watercourses. However, establishing a formal reporting requirement would create an unnecessary paperwork burden on NFIP communities and an unnecessary administrative burden on the Agency. Therefore, reporting requirements will not be included in the final rule.

6. The same two commentators suggested that in rapidly urbanizing areas, future development of the watershed upstream from the altered watercourse should be considered in estimating design flows and flood plain limits. They asserted that with any flood control project, there is a potential for the benefits to be partially or completely negated by upstream development which increases runoff and the 100-year flood discharge. FEMA has taken these comments under advisement. A study is presently underway to examine the feasibility of considering future development in flood risk determinations. However, certain administrative issues become immediately apparent. First is the issue of equitable charging of actuarial premium rates for flood insurance coverage when rates are based on future rather than current risk conditions. Secondly, the estimation of future development and its effects on hydrologic conditions adds an additional level of uncertainty on the regulatory data established. This data remains subject to individual rights to appeal, and therefore, must be scientifically, technically and legally defensible. While FEMA is aware of the impact of possible future urbanization on the flood risk, these significant administrative concerns may prove too complex to implement effectively. Nevertheless, communities are encouraged to address the issue of the impacts of upstream future development on the potential benefits of a flood control project and adopt more restrictive local standards as necessary.

7. One State suggested that FEMA require proof from any applicant for a map revision, based on an altered watercourse, that a State permit has been granted before FEMA modifies the flood plain delineation on the FIRM. Requiring proof of a State permit is not an appropriate FEMA function in this activity. Typically, permitting processes occur in advance of installation of a flood control project, whereas a FEMA map revision occurs after the project's completion. To require proof of a State permit would be an after-the-fact effort solely to police compliance with State laws. Instead, FEMA requires at § 60.3(a)(2) that communities review all proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law. Further, in correspondence with applicants for map revisions, FEMA emphasizes the responsibility of the applicant to obtain all required permits, and to assure that the community has been informed of the revision request.

8. Another State suggested that by delineating to local citizenry the potential adverse consequences and benefits of sound watershed management, it is possible to increase the likelihood of gaining local support for the maintenance of watercourse issue. FEMA recognizes the virtues of this suggestion; however, the issue of public awareness activities is beyond the scope of this rulemaking. Nevertheless, FEMA encourages State and local governments to conduct public awareness efforts regarding sound watershed management.

Flood Plain Management Criteria for Regulatory Floodways

Five comments were received on this issue from three States and two associations. One commentator found the proposed language insufficient and suggested substitute language; three commentators supported the proposed rule; and one commentator objected to allowing any encroachment within the floodway.

The final rule to amend § 60.3(d)(3) is intended to make clear the intent that hydrologic and/or hydraulic analyses be performed as a part of a community's decision making regarding proposed encroachments in the floodway. Development actions that result in no rise in BFE's have always been allowed by the NFIP regulations and their prohibition was not addressed in this rulemaking. Therefore, the comment opposing encroachment in the floodway is not being considered at this time. Further, standards more restrictive than the NFIP can always be adopted by States or communities and FEMA encourages such action.

1. One State and an association suggested specific hydraulic modeling procedures for demonstrating that the proposed encroachment does not result in any increase in the BFE's. The procedures suggested are consistent with those set forth in § 65.7 and they are suitable; however, under certain situations, alternate analytical approaches may also suffice. FEMA does not want to establish procedures that would preclude the use of alternative approaches. Rather, the final rule is an effort to ensure that communities base their floodway encroachment decisions on hydrologic and hydraulic analyses performed in accordance with standard engineering practice which demonstrate that the proposed encroachments do not result in any increase in BFE's.

2. Substitute language was provided by an association that would give the local flood plain administrator the option of determining when and if a hydraulic or hydrologic analysis would be necessary. To allow the community to have the option of requiring an engineering analysis would result in perpetuation of the current situation which has proven unsuitable, i.e., unsupported decision making. Instead, the final rule assures that the community obtains an engineering analysis on which to base the decision regarding proposed development in the floodway. The final rule does not preclude the analysis from being performed by the local flood plain administrator if he or she has the technical expertise to do so. The local flood plain administrator does have the authority to specify the depth of the analysis which should be governed by common sense and the level of detail dependent on the nature of the proposed action. Computer modeling may not be required in every instance; however, supporting documentation sufficient to show that a zero rise in BFE's would result should be obtained by the community and maintained on file.

3. The same association asked whether other methods of mitigating the impact of the encroachment such as public land acquisition of the impacted area or hold harmless agreements would be acceptable in lieu of an engineering analysis. FEMA believes that before determining the appropriate form of compensatory action, an engineering analysis to determine the impact of the encroachment would still be necessary. Further, FEMA would not encourage hold harmless agreements because such agreements are likely to be between the project sponsor and the affected properties' owners and are likely to exclude indemnification of the National Flood Insurance Fund which would likely be susceptible to increased payments to individual policyholders when they submit claims for the increased flood damages caused by the project. Before approving such a project, FEMA would require assurances that no insurable structures are adversely impacted. This assurance is discussed in greater detail in the following subheading.

One commentator incorrectly analyzed the effect of the amendment to § 60.3(d)(3) by stating that *all* floodway encroachments will require that analyses be submitted to FEMA prior to issuance of a flood plain use permit to assure a community's compliance in the NFIP. The final rule amending § 60.3(d)(3) retains decision making for permitting encroachments that cause no rise in BFE's at the local level. The commentator is referring to amendments adding § 60.3(c)(13) and § 60.3(d)(4) which pertain to development that would result in BFE increases exceeding the NFIP standards. These amendments are discussed under the following subheading.

Revision of FIRMs To Reflect BFE Increases Exceeding NFIP Standards

Six comments on this rule were received from four States and two associations. Three commentators agreed with the concept but expressed concerns, two supported the amendment and one objected to any change to § 60.3 at the present time.

The intent of the final rule is to establish a mechanism within the NFIP regulations to allow for exceptions to the limitations on BFE increases contained in § 60.3 (c)(10) and (d)(3) to accommodate situations where the proposed flood plain actions can result in reduced flood hazards or have a net public benefit. The final rule also prevents, or compensates for, adverse impacts on property owners and the National Flood Insurance Fund, and assures proper notification of all affected property owners. This is achieved through the submission to FEMA of an application for conditional map revision for such action prior to permitting the encroachments to occur. The application will include scientific and technical information to support the request, evidence that a BFE increase is justified, that all engineering alternatives have been considered and determined to be unsuitable, that community approval has been obtained,

that no insurable structures are impacted, and that any property owners adversely impacted are properly notified.

1. An association submitted the following questions regarding this issue. First, must the community pay FEMA for the review of the conditional map revision request? The appropriate initial fee or a request for exemption from the fee would be required as specified by § 72.5 of the existing rule. Second, will FEMA establish a schedule for review of the request in order to process it without undue delay and hardship to the applicant? Such a schedule presently exists at § 72.4 of the NFIP regulations. Third, will FEMA allow the determination to be made by the State Coordinator for the NFIP or by the FEMA Regional Offices? Authority to make such a determination is not being delegated at this time.

2. A State agency and an association suggested that the final rule not be limited to areas where no existing development would be impacted by the BFE increases. FEMA points out that in cases where structures may be impacted by proposed projects exceeding the allowable BFE's, the applicant always has the option of purchasing and removing them, elevating them to the new base flood elevation that would result from construction of the proposed project, or providing other forms of mitigation.

The commentators further suggested that adverse impacts to the National Flood Insurance Fund could be avoided by assessing actuarial rates to any structure whose owner agrees to the increase. The final rule limits conditions to areas where no insurable structures are impacted because no workable mechanism exists for indemnifying the National Flood Insurance Fund to compensate for the increased claims likely to result from insured or potentially insurable structures. The creation of such mechanisms would be prohibitively complex from an administrative standpoint.

3. These commentators also stated that simple notification to all affected property owners of an impending increase in BFE's is insufficient and that FEMA should verify that appropriate legal arrangements have been made before such a project is permitted. The final rule provides for legal notification to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property. In connection with many such projects, the community will also be seeking revisions to the floodway designation and BFE determinations. Such actions will involve due process requirements specified under Parts 65 and 67 of the NFIP regulations, as well. FEMA believes that these combined procedures provide for sufficient notification to affected property owners and an opportunity for them to either publicly participate in the community's decision making or to avail themselves of a legal recourse, if desired.

FEMA does not believe it is appropriate for this agency to identify what constitutes "appropriate legal arrangements" or verify that such arrangements have been made in each case.

4. Regarding the requirement in the final rule at § 65.12(a)(2) for submission of an evaluation of alternatives which do not result in BFE increases and demonstration why such alternatives are not feasible, another association suggested alternate language. The commentator is concerned that communities will be required to submit detailed economic analyses of numerous alternatives. FEMA believes that the alternate wording offered by the commentator does not represent a significant difference from the language of the proposed rule. The intent of the final rule is not to require detailed economic analyses, but instead to ensure that communities have considered possible engineering alternatives which would not raise flood levels, and that they were rejected for legitimate reasons.

5. A State agency objected to including provisions which would allow certain development exceeding the NFIP standards for BFE increases in the flood plain management criteria section of the regulations. The commentator feared that such exceptions will become part of all NFIP participating communities' local regulations and will then subject communities to increasing requests for floodway revisions. Further, the commentator stated that § 65.7, pertaining to floodway revisions, was adequate and that exceptions to § 60.3 (c) and (d) should not be incorporated into the NFIP regulations.

With regard to local adoption of the final rule amendments, the provisions of § 60.3 (c)(13) and (d)(4) of the final rule need only be adopted in local ordinances if a community elects to take advantage of them. No mandatory inclusion of these amendments in all local ordinances adopted by communities participating in the NFIP will occur. FEMA estimates receiving fewer than 50 requests per year for conditional map revisions for floodway encroachments.

As for the adequacy of § 65.7, FEMA believes that the existing provisions of § 65.7 do not sufficiently accommodate projects which by their nature must be included in floodways such as stormwater detention basins, dams and bridges. Section 65.7 enables communities to revise the boundaries of a floodway, if certain criteria are met, so as to no longer include certain proposed projects within the floodway. In addition, under § 65.7 the revised floodway limits must be set so that neither the effective BFE's nor the proposed BFE's are increased by more than one foot at any point. Projects such as detention basins, dams and certain bridges cannot be located outside the floodway and in some cases the BFE increases caused by them may be greater than one foot. Thus, § 65.7 does not accommodate all situations and the final rule amending § 60.3 is necessary.

The current regulations constitute a complete prohibition of any development in the floodway which would cause any rise in BFE's. The current regulations also prohibit any action in a flood plain which would cause more than a one foot rise in BFE's when a floodway has not been adopted. Because of the need to allow for exceptions to the limitations on BFE increases in cases where floodway or flood plain projects reduce flood hazards and/or result in a net public benefit, a mechanism for such exceptions must be established in the NFIP regulations. Without such a mechanism, communities cannot accommodate such proposed projects and FEMA cannot approve map revisions for them. The need to allow exceptions such as these will increase as more States and communities require stormwater management facilities to offset increased runoff rates due to development.

Procedure for Map Correction

Eleven comments addressing this proposed rule were received from two States, one association, one individual, five private companies, and two local government agencies. Three commentators supported the proposed rule, one objected and the remainder expressed concerns as a result of their misinterpreting the proposed rule.

Seven commentators from Texas expressed the same concern that the proposed rule would impact commercial structures with loading areas below the BFE. The commentators apparently did not understand that the amendment has the effect of deleting an unnecessary requirement for the data needed to support a request for a Letter of Map Amendment (LOMA). The rule change eliminates the need for appellants, seeking a LOMA, to incur the cost of

obtaining and providing extraneous information that FEMA does not use in making LOMA determinations.

The commentators appear to have construed the amendment to affect the Letter of Map Revision (LOMR) process, which it does not. The two procedures are explained below to remedy the confusion.

The LOMA process pertains to any owner or lessee of property who believes his or her property (at natural grade) has been inadvertently included (i.e., mapped) in a designated Special Flood Hazard Area (SFHA). The governing criterion for granting the LOMA, which technically removes a structure from the SFHA and lifts the Federal requirement for mandatory flood insurance purchase, is whether the lowest adjacent grade to the structure is at or above the base flood elevation.

The LOMR process applies when alterations of topography have occurred and specifically pertains to structures which have been elevated by fill. Requests for LOMRs are processed under 44 CFR Part 65. The governing criteria when fill is involved are whether the lowest adjacent grade to, and the lowest floor (including basement) of, the structure are at or above the BFE.

The final rule amending § 70.3(b) does not affect the LOMR process or the flood plain management regulations which communities must enforce. To be compliant with § 60.3(c) of the NFIP regulations, communities must require new construction in the SFHA to have the lowest floor elevated (by whatever means) to or above the BFE. The lowest adjacent grade to the structure can be below the BFE and still be compliant with § 60.3(c), but it would not qualify for a LOMR.

Procedure and Fees for Conditional Approval of Map Changes

Three commentators made up of two States and one association expressed support for this rule.

Standard Flood Insurance Policy

There were three comments on the proposed changes to the Standard Flood Insurance Policy (SFIP). Two expressed support for these proposed changes, and one stated that the language of the change specifically excluding coverage for damage caused by destabilization of land resulting from the accumulation of water in subsurface land areas was not clear. Since this proposed change was in response to a recent court decision, FEMA feels it is necessary to use the language of the court, which the proposed rule did, and so this final rule makes no change in the language of the proposed rule.

Also, FEMA has concluded that the duplicate policy provision in the proposed rule should be made more flexible. The proposed rule specified that, when duplicate policies (i.e., more than one policy for a building or the contents in a building) were discovered, the earlier policy had to be the one that was kept in effect. The final rule permits the policyholder to choose which policy to keep in effect. One situation in which this could be useful is where a lender purchases a flood insurance policy on behalf of the borrower when the borrower already had a flood insurance policy. In such cases, it may be more convenient to the parties to keep the later policy purchased by the lender in effect.

This duplicate policy provision applies to all NFIP policies, whether with the same or different Write-Your-Own companies or with the direct NFIP business or with both the direct NFIP business and a Write-Your-Own company.

FEMA has determined, based upon an Environmental Assessment, that this rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

This rule will not have a significant economic impact on a substantial number of small entities and, hence, has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, 62, 65, 70, and 72

Flood insurance, Flood plains, Claims.

Accordingly, 44 CFR Chapter I, Subchapter B, is amended as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 59.1 [Amended]

2. Section 59.1 is amended as follows:

a. By revising the definition of "Coastal high hazard area" to read as follows:

* * * * *

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

* * * * *

b. By adding, alphabetically, a definition of "Primary frontal dune" to read as follows:

* * * * *

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 60.3 [Amended]

4. Section 60.3 is amended as follows:

a. By adding a new paragraph (c)(13) to read as follows:

* * * * *

(c) * * *

(13) Notwithstanding any other provisions of § 60.3, a community may approve certain development in Zones A1–30, AE, and AH, on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of § 65.12, and receives the approval of the Administrator.

b. By removing in paragraph (d)(1) the phrase "(12)" and adding in its place the phrase "(13)".

c. By removing in paragraph (d)(3) the phrase "that would" and adding in its place the phrase "unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering

practice that the proposed encroachment would not".

* * * * *

d. By adding a new paragraph (d)(4) to read as follows:

* * * * *

(d) * * *

(4) Notwithstanding any other provisions of § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Administrator.

e. By removing in paragraph (e)(1) the phrase "(12)" and adding in its place the phrase "(13)".

PART 61—INSURANCE COVERAGE AND RATES

5. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 61.4 [Amended]

6. Section 61.4 is amended by removing in paragraph (c) the phrase "or from earthquakes" and adding in its place the phrase ", destabilization or movement of land resulting from the accumulation of water in subsurface land areas, earthquakes,".

§ 61.5 [Amended]

7. Section 61.5 is amended by removing in paragraph (f)(4) the words "driveways and other surfaces outside the foundation walls of the building;" and adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building;" and by adding a new paragraph (j) to read as follows:

* * * * *

(j) *Duplicate policies not allowed.* Property may not be insured under more than one policy issued under the National Flood Insurance Act of 1968, as amended. When the insurer finds that duplicate policies are in effect, the insurer shall by written notice give the insured the option of choosing which policy is to remain in effect. If the insured chooses to keep in effect the policy with the earlier effective date, the insurer shall by the same written notice give the insured an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy. If the insured chooses to keep in effect the policy with the later effective date, the insurer shall by the same written notice give the insured the opportunity to add the coverage limits of the earlier policy to those of the later policy, as of the effective date of the later policy. In either case, the insured must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the Act or the insured's insurable interest, whichever is less. The insurer shall make a refund to the insured, according to applicable NFIP rules, of the premium for the policy not being kept in effect. For purposes of this paragraph (j), the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect. In addition to the provisions of this paragraph (j) for increasing policy limits, the usual procedures for increasing policy limits by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the policy the insured chooses to keep in effect.

Appendix A(1) of Part 61—[Amended]

8. Appendix A(1) of Part 61, Standard Flood Insurance Policy, is amended as follows:

a. The Dwelling Form—Insuring Agreement (appearing immediately before Article I) is amended by adding after the phrase "42 U.S.C. 4001, *et seq.*" and within the parentheses the phrase ", hereinafter called the Act" and by removing the clause beginning with the words "we insure" and ending at the end of the sentence, and adding in its place the following: "we insure you and your legal representatives against all "Direct Physical Loss by or from Flood", as defined in Article II of this Agreement, to the insured property, to the extent of the actual cash value, not including any antique value, of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss."

b. In Article II—Definitions, the definition of "Direct Physical Loss by or from Flood" is amended by adding in the first sentence after the word "labor" and before the word "at" the words "and the labor of members of your household".

c. In Article III—Losses Not Covered, paragraph A.1 is amended by adding after "landslide," and before "gradual erosion" the following: "destabilization or movement of land resulting from the accumulation of water in subsurface land areas,".

d. In Article IV—Property Covered (Subject to "Property Not Covered" Provision), paragraph A.1 is amended by removing the comma and the words "if your" after the words "building's common elements" and adding in their place the following: "and the common elements of any other building of your condominium association covered by insurance that is: (i) in the name of your condominium association, (ii) provided under the Act, and (iii) in an amount at least equal to the actual cash value of the building's common elements at the beginning of the current policy term or the maximum building coverage limit available under the Act, whichever is less; provided that the insurance under this policy shall be excess over any insurance in the name of your condominium association covering the same-property covered by this policy; provided, your condominium" and by removing after the words "one family and" the word "if".

e. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph A.7 is amended by adding after the word "labor" and before the word "at" the words "and the labor of members of your household".

f. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph C is amended by removing in the first sentence the words "antique furniture," and the words ", antique silver".

g. In Article IV—Property Covered (Subject to "Property Not Covered" Provisions), paragraph D is amended by adding after the word "labor" and before the word "at" the words "and the labor of members of your household".

h. In Article V—Property Not Covered, paragraph D is amended by removing the words "driveways and other surfaces, outside the foundation walls of the building" and adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building."

i. In Article VIII—General Conditions and Provisions, paragraph E is amended by removing the words ", but with retention of the expense constant" at the end of paragraph 1.b; and by removing the words "on a short-rate basis" and adding in their place the words "pro rata but with retention of the expense constant" in paragraph 1.c.

j. In Article VIII—General Conditions and Provisions, paragraph G is amended

by revising the second paragraph to read as follows:

* * * * *

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by us at the office of the NFIP within 30 days of the expiration date of this policy, subject to Article VIII.F of this appendix. If the renewal premium payment is mailed by certified mail to the NFIP prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days. In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received at the office of the NFIP, and in that event, we shall not be obligated to provide you with any cancellation, termination, policy lapse, or policy renewal notice advising you of any such cancellation, termination, policy lapse, or policy renewal; provided, however, with respect to any mortgagee (or trustee) named in the declarations form attached to this policy, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

k. Article VIII—General Conditions and Provisions is amended by adding a new paragraph T to read as follows:

* * * * *

T. *Duplicate policies not allowed.* Property may not be insured under more than one policy issued under the Act. When we find that duplicate policies are in effect, we shall by written notice give you the option of choosing which policy is to remain in effect. If you choose to keep in effect the policy with the earlier effective date, we shall by the same written notice give you an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy. If you choose to keep in effect the policy with the later effective date, we shall by the same written notice give you the opportunity to add the coverage limits of the earlier policy to those of the later policy, as of the effective date of the later policy. In either case, you must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the Act or your insurable interest, whichever is less. We shall make a refund to you, according to applicable NFIP rules, of the premium for the policy not being kept in effect. For purposes of this paragraph T, the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect. In addition to the provisions of this paragraph T for increasing policy limits, the usual procedures for increasing policy limits by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the policy you choose to keep in effect.

Appendix A(2) of Part 61—[Amended]

9. Appendix A(2) of Part 61, Standard Flood Insurance Policy is amended as follows:

a. The statement in brackets immediately following the heading "Standard Flood Insurance Policy" is amended by adding after the word "Thereof" and before the comma the phrase "(hereinafter called the Act)".

b. The paragraph immediately following the heading "General Property Form" is amended by adding after the words "actual cash value" the phrase ", not including any antique value,".

c. The following headings are amended by adding article numbers as indicated below:

Article I—Persons Insured

Article II—Definitions

Article III—Perils Excluded

Article IV—Property Covered (Subject to "Property Not Covered" Provisions)

Article V—Property Not Covered

Article VI—Deductibles

Article VII—General Conditions and Provisions

d. In newly designated Article III—Perils Excluded, paragraph D is amended by adding after "landslide," and before "gradual erosion" the following: "destabilization or movement of land resulting from the accumulation of water in subsurface land areas,".

e. In newly designated Article IV—Property Covered, paragraph B.2 is amended by removing in the last paragraph the words "antique furniture," and the words "antique silver,".

f. In newly designated Article V—Property Not Covered, paragraph D is amended by removing the words "driveways and other surfaces outside the foundation walls of the building" and adding in their place the words "walkways, driveways, patios, and other surfaces, all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building."

g. In newly designated Article VII—General Conditions and Provisions, paragraph J is amended by revising the second and third paragraphs to read as follows:

* * * * *

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by the National Flood Insurance Program (NFIP) at its office within 30 days of the expiration date of this policy, subject to Article VII.E of this appendix. If the renewal premium payment is mailed by certified mail to the NFIP prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received so long as the renewal premium payment is received within the required 30 days.

In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received at the office of the NFIP, and in that event, the Insurer shall not be obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse, or policy renewal; provided, however, with respect to any mortgagee (or trustee) named in the Declaration form attached to this policy, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

h. In newly designated Article VII—General Conditions and Provisions, paragraph K is revised to read as follows:

* * * * *

K. *Cancellation of policy by insured.* 1. The Insured can cancel this policy at anytime but a refund of premium will be made only when:

a. The Insured cancels because the Insured has transferred ownership of the insured property to someone else. In this case, the Insurer will refund to the Insured, once the Insurer receives the Insured's written request for cancellation (signed by the Insured) the excess of premiums paid by the Insured which apply to the unused portion of the policy's term, pro rata but with retention of the expense constant.

b. The Insured cancels because it has been determined that the insured property is not, in fact, in a special flood hazard area; and the Insured was required to purchase flood insurance coverage by a private lender or Federal agency pursuant to Pub. L. 93–234, section 102; and the lender or Federal agency no longer requires the retention by the Insured of the coverage. In this event, if no claims have been paid or are pending, the premium payments will be refunded to the Insured in full, according to applicable regulations.

c. The Insured cancels a policy having a term of three (3) years, on an anniversary date, and the reason for the cancellation is:

(i) A policy of flood insurance has been obtained or is being obtained in substitution for this policy and the Insurer has received a written concurrence in the cancellation from any mortgagee of which the Insurer has actual notice, or (ii) the Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage.

Refund of any premium under this subparagraph "c" shall be pro rata but with retention of the expense constant.

* * * * *

i. Newly designated Article VII—General Conditions and Provisions is amended by adding a new paragraph X to read as follows:

* * * * *

X. *Duplicate policies not allowed.* Property may not be insured under more than one policy issued under the Act. When the Insurer finds that duplicate policies are in effect, the Insurer shall by written notice give the Insured the option of choosing which policy is to remain in effect. If the Insured chooses to keep in effect the policy with the earlier effective date, the Insurer shall by the same written notice give the Insured an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy. If the Insured chooses to keep in effect the policy with the later effective date, the Insurer shall by the same written notice give the Insured the opportunity to add the coverage limits of the earlier policy to those of the later policy, as of the effective date of the later policy. In either case, the Insured must pay the pro-rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the Act or the Insured's insurable interest, whichever is less. The Insurer shall make a refund to the Insured, according to applicable NFIP rules, of the premium for the policy not being kept in effect. For purposes of this paragraph X, the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect. In addition to the provisions of this paragraph X for increasing policy limits, the usual procedures for increasing limits by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the policy the Insured chooses to keep in effect.

j. The Condominium Association Endorsement is amended by adding a new paragraph 8 to read as follows:

* * * * *

8. The Insurer shall not be liable for any loss or any portion of any loss for which payment is made under any insurance in the name of any condominium unit owner, i.e., any member of the condominium association.

Appendix A(3) of Part 61—[Removed]

10. Part 61 is amended by removing Appendix A(3).

Appendix A(4) of Part 61—[Removed]

11. Part 61 is amended by removing Appendix A(4).

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

12. The authority citation for Part 62 is revised to read as set forth below and the authority citations following all the sections in Part 62 are removed.

Authority: 42 U.S.C. 4001; *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

* * * * *

§ 62.5 [Amended]

13. Section 62.5 is amended by removing in the last sentence the words "on a short-rate basis." and adding in their place the words "pro rata but with retention of the expense constant."

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

14. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 65.6 [Amended]

15. Section 65.6 is amended by adding new paragraphs (a)(12) and (a)(13) to read as follows:

* * * * *

(a) * * *

(12) If a community or other party seeks recognition from FEMA, on its FHBM or FIRM, that an altered or relocated portion of a watercourse provides protection from, or mitigates potential hazards of, the base flood, the Administrator may request specific documentation from the community certifying that, and describing how, the provisions of § 60.3(b)(7) of this subchapter will be met for the particular watercourse involved. This documentation, which may be in the form of a written statement from the Community Chief Executive Officer, an ordinance, or other legislative action, shall describe the nature of the maintenance activities to be performed, the frequency with which they will be performed, and the title of the local community official who will be responsible for assuring that the maintenance activities are accomplished.

(13) Notwithstanding any other provisions of § 65.6, a community may submit, in lieu of the documentation specified in § 65.6(a)(12), certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

§ 65.13 [Redesignated from § 65.11]

16. Part 65 is amended by redesignating § 65.11 as § 65.13 and adding new § 65.11 and § 65.12 to read as follows:

§ 65.11 Evaluation of sand dunes in mapping coastal flood hazard areas.

(a) *General conditions.* For purposes of the NFIP, FEMA will consider storm-induced dune erosion potential in its determination of coastal flood hazards and risk mapping efforts. The criterion to be used in the evaluation of dune erosion will apply to primary frontal dunes as defined in § 59.1, but does not apply to artificially designed and constructed dunes that are not well-established with long-standing vegetative cover, such as the placement of sand materials in a dune-like formation.

(b) *Evaluation criterion.* Primary frontal dunes will not be considered as effective barriers to base flood storm surges and associated wave action where the cross-sectional area of the primary frontal dune, as measured perpendicular to the shoreline and above the 100-year stillwater flood elevation and seaward of the dune crest, is equal to, or less than, 540 square feet.

(c) *Exceptions.* Exceptions to the evaluation criterion may be granted where it can be demonstrated through authoritative historical documentation that the primary frontal dunes at a specific site withstood previous base flood storm surges and associated wave action.

§ 65.12 Revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

(a) When a community proposes to permit encroachments upon the flood plain when a regulatory floodway has not been adopted or to permit encroachments upon an adopted regulatory floodway which will cause base flood elevation increases in excess of those permitted under paragraphs (c)(10) or (d)(3) of § 60.3 of this subchapter, the community shall apply to the Administrator for conditional approval of such action prior to permitting the encroachments to occur and shall submit the following as part of its application:

(1) A request for conditional approval of map change and the appropriate initial fee as specified by § 72.3 of this subchapter or a request for exemption from fees as specified by § 72.5 of this subchapter, whichever is appropriate;

(2) An evaluation of alternatives which would not result in a base flood elevation increase above that permitted under paragraphs (c)(10) or (d)(3) of § 60.3 of this subchapter demonstrating why these alternatives are not feasible;

(3) Documentation of individual legal notice to all impacted property owners within and outside of the community, explaining the impact of the proposed action on their property.

(4) Concurrence of the Chief Executive Officer of any other communities impacted by the proposed actions;

(5) Certification that no structures are located in areas which would be impacted by the increased base flood elevation;

(6) A request for revision of base flood elevation determination according to the provisions of § 65.6 of this part;

(7) A request for floodway revision in accordance with the provisions of § 65.7 of this part;

(b) Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to the Administrator of the adoption of flood plain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.

(c) Upon completion of the proposed encroachments, a community shall provide as-built certifications in accordance with the provisions of § 65.3 of this part. The Administrator will initiate a final map revision upon receipt of such certifications in accordance with Part 67 of this subchapter.

PART 70—PROCEDURE FOR MAP CORRECTION

17. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 70.3 [Amended]

18. Section 70.3 is amended as follows:

a. By removing the phrase "floor (including basement) of the" in paragraph (b)(2)(iv) and adding in its place the phrase "adjacent grade to a".

b. By revising paragraph (b)(4) to read as follows:

* * * * *

(b) * * *

(4) A certification by a Registered Professional Engineer or Licensed Land Surveyor that the lowest grade adjacent to the structure is above the base flood elevation.

PART 72—PROCEDURE AND FEES FOR OBTAINING CONDITIONAL APPROVAL OF MAP CHANGES

19. The authority citation for Part 72 is revised to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 72.5 [Amended]

20. Section 72.5 is amended by adding after the word "if", the phrase "the Administrator determines or".

Dated: May 2, 1988.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 88-10064 Filed 5-5-88; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

48 CFR Parts 5215 and 5252

Navy Acquisition Regulations Supplement; Policy Concerning the Use of Cost or Pricing Data and Cost Evaluation Where Adequate Price Competition Exists

AGENCY: Department of the Navy, DOD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is adding Part 5215 and amending Part 5252 of the Navy Acquisition Regulations Supplement (NARSUP) to the Federal Acquisition Regulations (FAR). Part 5215 of the NARSUP is being supplemented to clarify existing language contained in FAR Part 15 on Adequate Price Competition, and on the type of data and evaluation that might be required even when there is adequate price competition. A provision is also being added to Part 5252 of the NARSUP for use in all solicitations where it is anticipated that an award will be based on adequate price competition.

As a result of the public comments received on the proposed rule (52 FR 48550, December 23, 1987), several minor changes have been made.

EFFECTIVE DATE: May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Ed Callaway, 202-692-3324.

SUPPLEMENTARY INFORMATION:

A. Background

As a result of the passage of the Competition in Contracting Act of 1984, competition has become the rule of doing business in DoD; negotiations supported by detailed cost analysis have become the exception. Competition is the cornerstone of Navy acquisition policy. As a result, the Navy has found that not only does competition generate more favorable prices, but significant time and effort can be saved by relying on the forces of competition to establish prices, as opposed to the use of detailed cost analysis.

Even though the Navy has been a strong advocate of competition, there is still a tendency for some contracting officers to require the submission of cost or pricing data when there is an expectation that adequate price competition will result, or has resulted on a given procurement. Both the Assistant Secretary of the Navy, Shipbuilding and Logistics (ASN)(S&L) and the Deputy Assistant Secretary of Defense, Procurement (DASD)(P), issued memorandums stating that contracting officers were not to require certified cost or pricing data, other than selected data for cost realism evaluation purposes, when adequate price competition is anticipated. This practice undermines the competitive process, increases bid and proposal costs, unnecessarily burdens the government support offices with requirements for detailed audit and proposal reviews, and extends procurement lead time.

The principal cause of this problem is a failure to distinguish between requiring detailed cost or pricing data necessary in a sole source situation to negotiate a fair and reasonable price versus a requirement for only that data necessary to conduct a cost realism evaluation in a competition for the purposes of determining the realism of the offeror's price. The current coverage offers little guidance to distinguish between these two types of situations. The clarifying language provides needed guidance.

B. Regulatory Flexibility Act

The rule does not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. because, although most contracts are awarded to small entities on a competitive basis, the dollar value of these contracts is usually under $100,000, which has been the threshold at which the detailed cost or pricing data has been erroneously required.

C. Paperwork Reduction Act Analysis

Because the majority of small businesses generally do not receive contracts where the requirement to submit the detailed cost or pricing data would be applicable ($100,000 or greater), the Paperwork Reduction Act analysis is not applicable.

List of Subjects in 48 CFR Parts 5215 and 5252

Government procurement.

For the reasons set out in the preamble, Part 52 of Title 48 of the Code of Federal Regulations is amended as follows:

1. Part 5215 is added to read as follows:

PART 5215—CONTRACTING BY NEGOTIATION

Subpart 5215.4—Solicitation and Receipt of Proposals and Quotations

Sec.

5215.402 General.

5215.407 Solicitation provisions.

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35.

Subpart 5215.4—Solicitation and Receipt of Proposals and Quotations

5215.402 General.

(a) Competition is the cornerstone of Navy acquisition policy. As such, the preferred and predominant method of pricing in the Navy is through the use of competition, without the need for cost or pricing data and cost analysis. The Navy has found that not only does competition generate more favorable prices, but significant time and effort can be saved by relying on the forces of competition to establish prices, as opposed to the use of detailed cost analysis. This approach is not only consistent with the Competition in Contracting Act (CICA), but it affords the opportunity for significant efficiencies and reduction of procurement leadtime as a result of minimizing the requirement for cost or pricing data and associated audit reports. As competition is increasingly relied upon and the need for cost or pricing data is reduced, there may be a corresponding requirement for performing a cost realism evaluation for many competitive procurements to guard against unrealistically low prices which can lead to quality deficiencies, late deliveries, performance shortfalls, and cost overruns. In performing cost realism evaluation, only the minimum selected data to perform the cost realism evaluation is to be obtained, as opposed to full cost or pricing data which would be required when it is necessary to perform cost-based negotiations, such as in the case of sole source negotiations.

5215.407 Solicitation provisions.

(S–90) During acquisition planning, an assessment shall be made as to the likelihood that adequate price competition will exist. If it is anticipated that an award will be based on adequate price competition, the solicitation shall include the provision at 5252.215–9000. If the procurement schedule is critical, this provision with its Alternate I shall be used so that there will be a minimum delay in the event that adequate price competition does not materialize and it is necessary to obtain cost or pricing data. Contracting officers must be judicious in the use of the Alternate I provision, as it may cause offerors to incur certain costs in preparing standby cost or pricing data in anticipation that it may be subsequently requested.

Subpart 5215.6—Source Selection

5215.605 Evaluation factors.

(S–90)(1) When a cost realism evaluation will be performed, the source selection evaluation criteria shall include a notice that the proposed costs may be adjusted, for purposes of evaluation, based upon the results of the cost realism evaluation.

(2) Technical criteria may include quality standards that are based on either a minimally acceptable approach or a cost/benefit approach. When the quality desired is that necessary to meet minimum needs, proposals should be evaluated for acceptability and award made to the lowest priced, technically acceptable offer. When the quality desired is the highest affordable or that representing the best value, proposals should be evaluated on a cost/benefit basis that would permit an award based on paying appropriate premiums for measured increments of quality. When a cost/benefit approach is used, cost must carry a weight of not less than 40% unless thoroughly justified.

(3) Cost realism evaluation.

(i) Cost realism evaluation involves a summary level review of the cost portion (excluding profit/fee) of the offerors' proposals to determine if the overall costs proposed are realistic for the work to be performed. Cost realism evaluation differs from the detailed cost analysis usually undertaken in a noncompetitive procurement to determine the reasonableness of the various cost elements and profit/fee to arrive at a fair and reasonable price. Data submitted only for cost realism evaluation generally will not be certified.

(ii) The purpose of cost realism evaluation is to: (A) Verify the offeror's understanding of the requirements; (B) assess the degree to which the cost/price proposal reflects the approaches and/or risk assessments made in the technical proposal as well as the risk that the offeror will provide the supplies or services for the offered prices/costs; and (C) assess the degree to which the cost included in the cost/price proposal accurately represents the work effort included in the technical proposal.

(iii) Some examples of data and information that may be obtained to perform cost realism evaluation are: (A) Manloading (quantity and mix of labor hours); (B) engineering, labor and overhead rates; and (C) make or buy plans. A price analysis approach where there is adequate price history may also be a suitable and efficient means to evaluate cost realism. The amount of data required will be dependent upon the complexity of the procurement and the data already obtained by the contracting officer (e.g. information on recent Forward Pricing Rate Agreements (FPRAs)).

(iv) Cost realism evaluation generally will be performed as a part of the proposal evaluation process (see 5215.605) for all competitive solicitations where a cost reimbursement contract is contemplated. For competitive solicitations contemplating a fixed price, labor hour, or time and material type contract, a cost realism evaluation would be the exception and not the rule, although its use may be appropriate where the proposal evaluation process will encompass both a cost/price evaluation and a technical evaluation. Also, where the contracting officer suspects a "buy-in" (see FAR 3.501) or a misunderstanding of the requirements as a result of reviewing the initial offers, data and information should be obtained and a cost realism evaluation performed.

(v) When cost realism data are required, the contracting officer shall not request a formal field pricing report but rather, shall request a review of only those specific areas of information necessary to allow the contracting officer to perform a cost realism evaluation. For example, the contracting officer may only need to know the current or FPRA labor and/or overhead rates. In these instances, the request for information from DCAA may be oral or written.

5215.608 Proposal evaluation.

(a) When a cost realism evaluation will be performed in accordance with 5215.605(S–90), the resulting realistic cost estimate shall be used in the evaluation of cost.

Subpart 5215.8—Price Negotiation.

5215.804–3 Exemptions from or waiver of submission of certified cost or pricing data.

(a) *General.* As explained in 5215.402, cost or pricing data would not normally be obtained because the predominant portion of Navy procurements are awarded on the basis of adequate price competition.

(b)(1)(iii) Adequate price competition may also exist where price is a

secondary factor in the evaluation of proposals, as long as price is a substantial factor. Price, as used herein, means cost plus any fee or profit applicable to the contract price. Thus, in competitive acquisitions where adequate price competition is contemplated, the contracting officer shall not require the submission of cost or pricing data whether certified or not, as defined in FAR 15.801, regardless of the type of contract.

(b)(3) Examples of contract awards for which prices may be based on adequate price competition and/or to have been established by adequate price competition are:

(i) Contracts for items for which there are a limited number of sources and the prices at which award will be made are within a reasonable amount of each other and compare favorably with independent Government estimates and with prior prices paid;

(ii) Any contract, including cost-type contracts, when cost is a significant evaluation factor; and

(iii) Contracts for which there are dual sources.

PART 5252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. The authority citation for Part 5252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35

3. Section 5252.215–9000 is added to read as follows:

5252.215–9000 Submission of cost or pricing data.

As prescribed at 5215.407, insert the following provision:

Submission of Cost or Pricing Data (Nov 1987)

(a) It is expected that this contract will be awarded based upon a determination that there is adequate price competition; therefore, the offeror is not required to submit or certify cost or pricing data (SF 1411) with its proposal.

(b) If, after receipt of the proposals, the contracting officer determines that adequate price competition does not exist in accordance with FAR 15.804–3, the offeror shall provide certified cost or pricing data as requested by the contracting officer.

(End of Clause)

Alternate I (Nov 1987). As prescribed at 5215.407, substitute the following paragraph (b):

(b) If, after receipt of the proposals, the contracting officer determines that adequate price competition does not exist, the offeror shall provide certified cost or pricing data as requested by the contracting officer. The offeror shall provide the requested data within [1] calendar days from the date of the contracting officer's request.

(End of Clause)

April 26, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88–9814 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–AE–M

[1] To be completed by the contracting officer.

Proposed Rules

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 15

Nondiscrimination; Revision of Appendix

AGENCY: United States Department of Agriculture (USDA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The United States Department of Agriculture has determined that public interest requires greater elaboration on the extent of its programs covered by Civil Rights Laws and Regulations. Hence, the Department is revising and updating the Appendix for Subpart A which lists Federally assisted programs. In addition, the Department is promulgating under Subpart B, a list of direct assistance and Federally conducted programs and activities of the Department covered under agency program statutes.

DATE: To be considered, comments must be received on or before June 6, 1988.

ADDRESS: Comments should be submitted to Anthony M. Thielen, Compliance, Complaints and Adjudication Division, Office of Advocacy and Enterprise, Equal Opportunity, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Anthony M. Thielen; Phone—202–382–9207.

SUPPLEMENTARY INFORMATION: The Director, Office of Advocacy and Enterprise, has determined that this regulation is not a major role as defined by Executive Order 12291, since it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets. As a result, it is not necessary to prepare a Regulatory Impact Analysis. Furthermore, the Director has determined that this action will not have a significant economic impact on a substantial number of small entities. Therefore, no Regulatory Flexibility Analysis is required.

List of Subjects in 7 CFR Part 15

Civil Rights, Nondiscrimination.

PART 15—[AMENDED]

Accordingly, it is proposed to amend 7 CFR 15 Subpart A and Subpart B as follows:

1. The authority for Subpart A is revised to read as follows:

Authority: 5 U.S.C. 301; 29 U.S.C. 794; 42 U.S.C. 2000d–1, unless otherwise noted.

2. The authority for Subpart B is revised to read as follows:

Authority: 5 U.S.C. 301.

Subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

3. It is proposed to revise the Appendix to Subpart A to read as follows:

Appendix A—List of USDA-Assisted Programs

Programs administered by the U.S. Department of Agriculture in which Federal financial assistance is rendered, include but are not limited to the following:

Program	Authority
Administered by the Agricultural Cooperative Service	
1. Cooperative Development	Cooperative Marketing Act of 1926, 7 U.S.C. 451 et seq. Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621 et seq.
Administered by the Agricultural Marketing Service	
2. Federal-State marketing improvement program	Agricultural Marketing Act of 1946, Section 204b, 7 U.S.C. 1623(b).
Administered by the Agricultural Research Service	
3. Soil and Water Conservation	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862 (7 U.S.C. 2201); the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 427, 1621) and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).
4. Animal Productivity	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862; (7 U.S.C. 2201); the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 427, 1621), and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).
5. Plant Productivity	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862, (7 U.S.C. 2201), the Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 427, 1621) and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).
6. Commodity Conversion and Delivery	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862 (7 U.S.C. 2201), the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 427, 1621), and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).
7. Human Nutrition	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862 (7 U.S.C. 2201), the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 427, 1621), and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).
8. Integration of Agricultural Systems	7 CFR 3015.205(b); Department of Agriculture Organic Act of 1862 (7 U.S.C. 2201), the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 427, 1621), and the Food Security Act of 1985 (7 U.S.C. 1281 et seq).

Program	Authority
Administered by the Agricultural Stabilization and Conservation Service	
9. Price support programs operating through producer associations, cooperatives and other recipients in which the recipient is required to furnish specified benefits to producer (e.g. tobacco, peanuts, cotton, rice, honey, dry edible beans, tung oil, naval stores and soybeans price support programs).	Agricultural Adjustment Act of 1938, 7 U.S.C. 1301-1393; Pub. L. 73-430; Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et. seq.; Agricultural Act of 1949, as amended; 7 U.S.C. 1421, et seq; Pub. L. 81-439, as amended; Agriculture and Food Act of 1961; Pub. L. 97-98; Dairy and Tobacco Adjustment Act of 1983; Pub. L. 98-180; Agricultural Programs Adjustment Act of 1984; Pub. L. 98-258; Food Security Act of 1985; Pub. L 99-198.
Administered by Cooperative State Research Service	
10. 1890 Research Facilities	Sec. 1433 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, Pub. L. 95-113, as amended; 7 U.S.C. 3195.
11. Payments to 1890 Land-Grant Colleges and Tuskegee Institute.	Sec. 1445 of the National Agricultural Research, Extension and Teaching Policy Act of 1977; Pub. L. 85-113, as amended; 7 U.S.C. 3222.
12. Cooperative Forestry Research (McIntire-Stennis Act).	Cooperative Forestry Research Act of October 10, 1962; Pub. L. 87-788; 16 U.S.C. 582a-582q-7.
13. Payments to Agricultural Experiment Stations under Hatch Act.	Hatch Act of 1887, as amended; 7 U.S.C. 361a-361i.
14. Grants for Agricultural Research Competitive Research Grants.	Sec. 2(b) of Pub. L. 89-106; 7 U.S.C. 450i(b), as amended.
15. Grants for Agricultural Research, Special Research Grants.	Sec. 2(c) of Pub. L. 89-106; 7 U.S.C. 450i(c), as amended.
16. Animal Health and Disease Research	National Agricultural Research, Extension and Teaching Policy Act of 1977, Sec. 1433, Pub. L. 95-113, as amended; 7 U.S.C. 3195.
Administered by Extension Service	
17. Home Economics	Smith-Lever Act, as amended; 7 U.S.C. 341-349; District of Columbia Post-secondary Education Reorganization Act, D.C. Code, Sec. 31-1518; Title V, Rural Development Act of 1972, as amended; 7 U.S.C. 2661, et seq. Sec. 14, Title 14, National Agricultural Research, Extension and Teaching Policy Act of 1977; Pub. L. 95-113, as amended.
18. 4-H Youth Development	Smith-Lever Act, as amended; 7 U.S.C. 341-349; District of Columbia Public Postsecondary Education Reorganization Act, D.C. Code Sec. 31-1518; Title VI, Rural Development Act of 1972, as amended; 7 U.S.C. 2661, et seq.; Sections 1425 and 1444, National Agricultural Research, Extension and Teaching Policy Act of 1977; Pub. L. 95-113, as amended; 7 U.S.C. 3221, 3175; Pub. L. 96-374, Sec. 1361(c); 7 U.S.C. 301 note; Pub. L. 97-98, Argicultural and Food Act of 1981, sec. 1401
19. Agricultural and Natural Resources	Smith-Lever Act, as amended; 7 U.S.C. 341-349; District of Columbia Public Postsecondary Reorganization Act; D.C. Code Sec. 31-1518; Title V, Rural Development Act of 1972, as amended; 7 U.S.C. 2661, et. seq.; Sec. 14, National Agricultural Research, Extension and Teaching Policy Act of 1977; Pub. L. 95-113, as amended; 7 U.S.C. 3101, et seq.
20. Community Resource Development	Smith-Lever Act, as amended; 7 U.S.C. 341-349; District of Columbia Post-secondary Reorganization Act; D.C. Code 31-1518; Title V, Rural Development Act of 1972, as amended; 7 U.S.C. 2661, et. seq.; National Agricultural Research, Extension and Teaching Policy Act of 1977; Pub. L. 95-113, as amended; 7 U.S.C. 3101, et seq; Renewable Resources Extension Act of 1978; 16 U.S.C. 1671-1676.
Administered by Federal Crop Insurance Corporation	
21. Crop Insurance	Federal Crop Insurance Act, as amended; 7 U.S.C. 1501-1520; Title V of the Agricultural Adjustment Act of 1938; 52 Stat. 31 and Federal Crop Insurance Act of 1980; Pub. L. 96-385 (Sept. 26, 1980); 94 Stat. 1312-1319.
Administered by Farmers Home Administration	
22. Farm Ownership Loans to install or improve recreational facilities or other nonfarm enterprises.	Section 302 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1923.
23. Farm Operating Loans to install or improve recreational facilities or other nonfarm enterprise.	Sec. 312 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1942.
24. Community Facility Loans	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926.
25. Rural Rental Housing and related facilities for elderly persons and families of low income.	Sec. 515, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1485.
26. Rural Cooperative Housing	Sec. 515, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1485.
27. Rural Housing Site Loans	Sec. 524, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1490d.
28. Farm and Labor Housing Loans	Sec. 514, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1484.
29. Farm Labor Housing Grants	Sec. 516, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1486.
30. Mutual self-help housing grants. (Technical assistance grants).	Sec. 523, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1490c.
31. Technical and supervisory assistance grants	Sec. 525, Title V, Housing Act of 1949, as amended; 42 U.S.C. 1490e.
32. Individual Recreation Loans	Sec. 304 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1924.
33. Recreation Association Loans	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926.
34. Private enterprise grants	Sec. 310(B)(c) of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1932(c).
35. Indian Tribal Land Acquisition Loans	Pub. L. 91-229, approved April 11, 1970; 25 U.S.C. 488.
36. Grazing Association Loans	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926.
37. Irrigation and Drainage Associations	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926.
38. Area development assistance planning grant program.	Sec. 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926(a)(11).
39. Resource conservation and development loans.	Sec. 32(e) of Title III, the Bankhead-Jones Farm Tenant Act; 7 U.S.C. 1011(e).

40. Rural Industrial Loan Program	Sec. 310B of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1932.
41. Rural renewal and resource conservation development, land conservation and land utilization.	Sec. 31-35, Title III, Bankhead-Jones Farm Tenant Act; 7 U.S.C. 1010-1013a.
42. Soil and water conservation, recreational facilities, uses; pollution abatement facilities loans.	Sec. 304 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1924.
43. Watershed protection and flood prevention program.	Sec. 1-12 of the Watershed Protection and Flood Prevention Act, as amended; 16 U.S.C. 1001-1008.
44. Water and Waste Facility Loans and Grants	Sec. 306 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1926.
Administered by Food and Nutrition Service	
45. Food Stamp Program	The Food Stamp Act of 1977, as amended; 7 U.S.C. 2011-2029.
46. Nutrition Assistance Program for Puerto Rico. (This is the Block Grant signoff of the Food Stamp Program for Puerto Rico.	The Food Stamp Act of 1977, as amended; Sec. 19, 7 U.S.C. 2028.
47. Food Distribution (Food Donation Program) (Direct Distribution Program).	Sec. 32, Pub. L. 74-320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75-165. 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79-396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81-439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91-665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84-540, 70 Stat. 202 7 U.S.C. 1859); sec 9, Pub. L. 85-931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86-756, 74 Stat. 899 (7 U.S.C. 1431 note); sec. 709, Pub. L. 89-321, 79 Stat. 1212 (7 U.S.C. 1446a-1); sec. 3, Pub. L. 90-302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93-288, 88 Stat. 157 (42 U.S.C. 5179, 5189); sec. 2, Pub. L. 93-326, 88 Stat. 286 (42 U.S.C. 1762a); sec. 16, Pub. L. 94-105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304(a), Pub. L. 95-113, 91 Stat. 980 (7 U.S.C. 612 note); sec. 311, Pub. L. 95-478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); Pub. L. 98-8, 97 Stat. 35 (7 U.S.C. 612c note); (5 U.S.C. 301).
48. Food Distribution Program Commodities on Indian Reservations.	The Food Stamp Act of 1977, as amended, Section 4(b), 7 U.S.C. 2013(b).
49. National School Lunch Program	National School Lunch Act, as amended; 42 U.S.C. 1751-1760.
50. Special Milk Program for Children (School Milk Program).	Child Nutrition Act of 1966, Sec. 3, as amended, 42 U.S.C. 1772.
51. School Breakfast Program	Child Nutrition Act of 1966, Sec. 4, as amended; U.S.C. 1773.
52. Summer Food Service Program for Children	National School Lunch Act, Sec. 13, as amended; 42 U.S.C. 1761.
53. Child Care Food Program	National School Lunch Act, Sec. 17, as amended; 42 U.S.C. 1766.
54. Nutrition Education and Training Program	Child Nutrition Act of 1966, Sec. 19, 42 U.S.C. 1788.
55. Special Supplemental Food Program for Women, Infants and Children.	Child Nutrition Act of 1966, Sec. 17, 42 U.S.C. 1786.
56. Commodity Supplemental Food Program	Agriculture and Consumer Protection Act of 1973, as amended; 7 U.S.C. 612c note.
57. Temporary Emergency Food Assistance Program.	Temporary Emergency Food Assistance Act of 1983, as amended; 7 U.S.C. 612c note.
58. State Administrative Expenses for Child Nutrition.	Child Nutrition Act of 1966, Sec. 7, as amended; 42 U.S.C. 1776.
59. Nutrition Assistance Program for the Commonwealth of the North Mariana Islands. (This is the Block Grant spin-off of the Food Stamp Program for CNMI).	Trust Territory of the Pacific Island, 48 U.S.C. 1681 note.
Administered by Forest Service	
60. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge.	Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 501 of the Federal Land Policy Management Act of 1976, 43 U.S.C. 1761; Term Permit Act of March 4, 1915, as amended 16 U.S.C. 4971, Secs. 3 and 4 of the American Antiquities Act of June 8, 1906, 16 U.S.C. 432; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
61. Youth Conservation Corps	Act of August 13, 1970, as amended, 16 U.S.C. 1701-1706. Note: This is a Federally financed and conducted program on National Forest land providing summer employment to teen-age youth doing conservation work while learning about their natural environment and heritage. Recruitment of recipient youth is without regard to economic, social or racial classification. Policy requires that random selection from the qualified applicant pool be made in a public forum.
62. Job Corps	29 U.S.C. 1691-1701. Note: This is a Federally financed and conducted program providing education and skills training to young men and women. The U.S. Department of Labor is entirely responsible for recruiting of recipient youth.
63. Permits for disposal of common varieties of mineral material from lands under the Forest Service jurisdiction for use by other individuals at a nominal or no charge.	Secs. 1-4 of the Act of July 31, 1947, as amended, 30 U.S.C. 601-603, 611.
64. Use of Federal land for airports	Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. 2202, 2215, National Forest lands are exempt, Sec. 2215(c).
65. Conveyance of land to States or political subdivision for widening highways, streets and alleys.	Act of October 13, 1964, 78 Stat. 1089. Forest Road and Trail Act, codified at 16 U.S.C. 532-538.
66. Payment of 25 percent of National Forest receipts to States for schools and roads.	Act of May 23, 1908, as amended, 16 U.S.C. 500.
67. Payment to Minnesota from National Forest receipts of a sum based on a formula.	Sec. 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577 g-1.
68. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act lands to Counties for school and road purposes.	Sec. 33 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1012.
69. Cooperative action to protect, develop, manage and utilize forest resources on State and private lands.	Cooperative Forestry Assistance Act of 1976, 16 U.S.C. 2101-2111.
70. Advance of funds for cooperative research	Sec. 20 of the Granger-Thye Act of April 24, 1950, 16 U.S.C. 581-1.
71. Grants for support of scientific research	Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, 16 U.S.C. 1600 et seq.
72. Research Cooperation	Forest and Rangeland Renewable Resources Research Planning Act of 1974, as amended, 16 U.S.C.
73. Grants to Maine, Vermont and New Hampshire for the purpose of assisting economically disadvantaged citizens over 55 years of age.	Older Americans Act of 1965, as amended, 42 U.S.C. 3056.

74. Senior Community Service Employment, develop, manage and utilize forest resources on State and private lands.	Older American Act of 1965, as amended, 42 U.S.C. 3056.
75. Cooperative Law Enforcement	16 U.S.C. 551a and 553.
76. Forest Utilization and Marketing	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, 16 U.S.C. 1606, 2101-2111.
77. Fire prevention and suppression	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, Sec. 7, 16 U.S.C. Sec. 2106.
78. Assistance to States for tree planting	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, Secs. 3, 6, 16 U.S.C. 2102, 2105.
79. Technical assistance forest management	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, Sec. 8, 16 U.S.C. 2107.
80. Extramural Research (Cooperative Agreements and Grants).	Range Renewable Resources Act of 1978; Rangeland and Latest Renewable Resources Research Act; 16 U.S.C. 1641-1647.
Administered by Food Safety and Inspection Service	
81. Federal-State Cooperative Agreements and Talmadge-Aiken Agreements.	Federal Meat Inspection Act; 21 U.S.C. 601 et seq. Talmadge-Aiken Act; 7 U.S.C. 450. Poultry Products Inspection Act; 21 U.S.C. 451 et seq.
Administered by Office of International Cooperation and Development	
82. Technical Assistant	7 U.S.C. 3291; 22 U.S.C. 2357; 22 U.S.C. 2392.
83. International Training	7 U.S.C. 3291; 22 U.S.C. 2357; 22 U.S.C. 2392.
84. Scientific and Technical Exchanges	7 U.S.C. 3291.
85. International Research	7 U.S.C. 3291.
Administered by Soil Conservation Service	
86. Conservation Technical Assistance to Landusers.	Sec. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590a-590f, 590g.
87. Plant Materials Conservation	Soil Conservation Act of 1935, Pub. L. 74-46; 49 Stat. 163, 16 U.S.C. 590(a-f).
88. Technical and financial assistance in Watershed Protection and flood prevention.	Watershed Protection and Flood Protection Act, as amended, 16 U.S.C. 1001-1005, 1007-1008; Flood Control Act, as amended and supplemented; 33 U.S.C. &01; 16 U.S.C. 1606(a) and Sec. 403-405 of the Agriculture Credit Act of 1978; 16 U.S.C. 2203-2205. Flood Prevention: Pub. L. 78-534; 58 Stat. 905; 33 U.S.C. 701(b)(1); Pub. L. 81-516.
89. Technical and financial assistance in watershed protection and flood prevention.	Emergency Operation (216); 68 Stat. 184; 33 U.S.C. 701(b)(1). Watershed Operation: Pub. L. 83-566; 68 Stat. 666; 16 U.S.C. 1001 et. seq.
90. Soil Survey	Sec. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended, 16 U.S.C. 590a-590f, 590g.
91. Rural Abandoned Mine Program	Surface Mining Control and Reclamation Act of 1977, Sec. 406; Pub. L. 95-87, 30 U.S.C. 1236, 91 Stat. 460.
92. Resource Conservation and Development	Soil Conservation Act of 1935; Pub. L. 74-46; Bankhead-Jones Farm Tenant Act; Pub. L. 75-210, as amended, Pub. L. 89-796; Pub. L. 87-703; Pub. L. 91-343; Pub. L. 92-419; Pub. L. 97-98; 95 Stat. 1213; 16 U.S.C. 590a-590f, 590g.
93. Great Plains Conservation	Soil Conservation and Domestic Allotment Act, Pub. L. 74-46, as amended by the Great Plains Act of August 7, 1956; Pub. L. 84-1021, Pub. L. 86-793 approved September 14, 1980. Pub. L. 91-118 approved November 1, 1969; Pub. L. 96-263 approved June 6, 1980; 16 U.S.C. 590a-590f, 590g.

Subpart B—Nondiscrimination, Direct USDA Programs and Activities

4. It is proposed to add Appendix B to Subpart B to read as follows:

Appendix B—USDA Direct Programs and Activities

Programs conducted by the U.S. Department of Agriculture which include but are not limited to the following.

Program	Authority
Administered by the Agricultural Marketing Service	
1. Agricultural Fair Practice Act	7 U.S.C. 2301-2306.
2. Commodity Credit Corporation's Dairy Collection Program.	Omnibus Budget Reconciliation Act of 1982; Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501-4513); Food Security Improvements Act of 1986.
3. Commodity Purchases	Section 32 (7 U.S.C. 612c); Sec. 6a, 6c and 14 of the National School Lunch Act; Sec. 4(a) of the Agriculture and Consumer Protection Act of 1973; 7 U.S.C. 612(c); Older Americans Act (42 U.S.C. 1751, 1755, 1758 and 1761.
4. Commodity Research and Promotion	Agricultural Marketing Act of 1946 (7 U.S.C. 1621 Act); (7 U.S.C. 2101-2119); Egg Research and Consumer Information Act (7 U.S.C. 2701-2718); Export Apple and Pear Act (7 U.S.C. 581-590); Export Grape and Plum Act (7 U.S.C. 591-599); Federal Seed Act (7 U.S.C. 1551-1611); National Wool Act of 1954, as amended; (7 U.S.C. 1781-1787); Plant Variety Protection Act (7 U.S.C. 2321-2331, 2351-2357, 2371-2372, 2401-2404, 2421-2417, 2441-2442, 2461-2463, 2481-2486, 2501-2504, 2531-2532; 2541-2545, 2561-2569, 2581-2583); Floral Research, Education and Consumer Information Act of 1981 (7 U.S.C. 4301-4319); Wheat and Wheat Foods Research and Nutrition Education Act of 1977 (7 U.S.C. 3401-3417); Cotton Research and Promotion Act of 1966, as amended, (7 U.S.C. 2101-2119); Dairy and Tobacco Adjustment Act of 1983, (7 U.S.C. 4501-4513); Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627); Agricultural Fair Practices Act (7 U.S.C. 2301-2306); Capper Volstead Act (7 U.S.C. 291-292); Potato Research and Promotion Act of 1971 (7 U.S.C. 2611-2627); Beef Promotion and Research Act of 1985; the Pork Promotion Research and Consumer Information Act of 1985.
5. Federal Seed Act Administration	Federal Seed Act (7 U.S.C. 1551-1575 and 1591-1611); Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627).
6. Governmentwide Food Quality Assurance	Federal Property and Administrative Services Act of 1949 (63 Stat. 377).
7. Inspection Grading and Standardization	Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627); Cotton Statistics and Estimates Act (7 U.S.C. 471-476); U.S. Cotton Futures Act (7 U.S.C. 15b); U.S. Cotton Standards Act (7 U.S.C 51-65); Naval Stores Act (7 U.S.C. 91-99); Tobacco Inspection Act (7 U.S.C. 511-511q); Wool Standards Act (7 U.S.C. 415b-d); Egg Products Inspection Act 1970, Pub. L. 91-597; 21 U.S.C. 1031-1056; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35; Dairy and Tobacco Adjustment Act of 1983; (7 U.S.C. 4501-4513); Tobacco Statistics of 1929 (7 U.S.C. 501-508); Tobacco Inspection Act of 1983 (7 U.S.C. 511r).

Program	Authority
8. Market Assistance and Analysis	Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627); Export apple and Pear Act of 1933 (7 U.S.C. 581–590); Export Grape and Plum Act of 1960; (7 U.S.C. 591–599); Tobacco Seed and Plant Exportation Act (7 U.S.C. 516–517).
9. Marketing Agreements and Orders	Agricultural Marketing Agreement Act of 1937, as amended; 7 U.S.C. 601, 602, 608a–e, 612, 614, 624, 671–674; Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501–4513).
10. Marketing Research	Agricultural Marketing Act of 1946; Food and Agriculture Act of 1977.
11. Market News	Cotton Statistics and Estimates Act (7 U.S.C. 471–473, 473b, 475–476; Tobacco Inspection Act of 1935; (7 U.S.C. 511–511a); Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627); Tobacco Statistics Act (7 U.S.C 501–508); Naval Stores Act (7 U.S.C. 91–99); U.S. Cotton Futures Act (7 U.S.C. 15b); Peanut Statistics (7 U.S.C. 951–957); Turpentine and Rosin Statistics (7 U.S.C. 2248); Agriculture and Food Act of 1981 (7 U.S.C. 2242A).
12. Perishable Agricultural Commodities Act	Perishable Agricultural Commodities Act of 1930, as amended (7 U.S.C. 499a–499s); Produce Agency Act (7 U.S.C. 491–497).
13. Plant Variety Protection	U.S. Plant Variety Protection Act of 1970, 84 Stat. 1542, 7 U.S.C. 2321 et seq.
Administered by Animal and Plant Health Inspection Service	
14. Animal and Animal Products (Veterinary Services).	7 U.S.C. 429, 430, 450, 1622, 1624, 2131–2147, 2149–2155, 3374, 2260, 3801–3812, 15 U.S.C. 1821–1831; 19 U.S.C. 1202, Sch. 1, part 1, item 100.01 and 1306; 21 U.S.C. 102–135; 151–158, 612–614 and 618; 45 U.S.C. 71–74; 46 U.S.C. 3901–3902; 49 U.S.C. 1741; 50 U.S.C. App. 2061 et seq.; Executive Order 11987.
15. Plant and Plant Products Inspection Programs (Plant Protection and Quarantine.	7 U.S.C. 147a, 147b, 148, 148a–148f, 149, 150–150g, 150aa–150, 151–164–a, 166, 167, 281–286, 450, 1581–1612, 1651–1656, 2260, 2801–2813; 49 U.S.C. 1741; 50 U.S.C. 2061 et. seq.; 2251 et. seq. 87 Stat. 884; Executive Order 11987.
Administered by the Agricultural Stabilization and Conservation Service	
16. Agricultural Conservation Program	The Soil Conservation and Domestic Allotment Act of 1936, Secs. 7 to 15, 16(a), 16(f) and 17, as amended and supplemented; (16 U.S.C. 590g–590o, 590p(a), 590(q); secs. 1001–1008 and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1508 and 1510), Sec. 1501 of the Food and Agriculture Act of 1977; Sec. 259 of the Energy Security Act of 1980 (Pub. L. 96–294).
17. Conservation Reserve Program	Food Security Act of 1985.
18. Cotton Program	Commodity Credit Corporation Charter Act, Pub. L. 80–89; Agricultural Act of 1949, as amended, 7 U.S.C. 1444; Extra Long Staple Cotton Act of 1983, Pub. L. 98–88; Food Security Act of 1985, Pub. L. 99–198.
19. Dairy Indemnity Payment Program	Pub. L. 90–484, as amended; the Agricultural Act of 1970, Title II, Sec. 204, 7 U.S.C. 450j–450l. Pub. L. 91–524; Agricultural and Consumer Protection Act of 1973; Pub. L. 93–86; Food and Agriculture Act of 1977; Pub. L. 95–113; Food and Agriculture Act of 1981, Pub. L. 97–98.
20. Dairy Termination Program	Agricultural Act of 1949, as amended by the Food Security Act of 1985.
21. Emergency Conservation Program	Agricultural Credit Act of 1978, Title IV, Pub. L. 95–334, 16 U.S.C. 2201–2205.
22. Emergency Feed Assistance Program	Agricultural Act of 1949, Sec. 407.
23. Farm Facility Loan Program	Agricultural Act of 1949, as amended; 12 U.S.C. 1134(c), Pub. L. 81–439; Commodity Credit Corporation Charter Act, as amended; 15 U.S.C. 714(b) and (c); Food and Agriculture Act of 1977, 15 U.S.C. 714(b). Pub. L. 95–113; Pub. L. 96–234; Agriculture and Food Act of 1981, Pub. L. 97–98.
24. Feed Grain Donation Program	Agricultural Act of 1949, Sec. 407.
25. Feed Grain Program	Commodity Credit Corporation Charter Act, Pub. L. 80–89; Agricultural Act of 1949, as amended, 7 U.S.C. 1421, Pub. L. 81–439; Federal Crop Insurance Act of 1980; Pub. L. 96–365, Food Security Act of 1985, Pub. L. 99–198.
26. Forestry Incentives Program	Cooperative Forestry Assistance Act of 1978; Pub. L. 95–313.
27. Grain Reserve Program	Agricultural Act of 1949; 7 U.S.C. 1445; Pub. L. 81–439; Commodity Credit Corporation Charter Act 15 U.S.C. 714, Pub. L. 80–806; Agriculture and Food Act of 1981, Pub. L. 97–98; Food Security Act of 1985, Pub. L. 99–198.
28. Herd Preservation Program	Agricultural Act of 1949, Sec. 407.
29. Indian Acute Distress Donation Program	Agricultural Act of 1949, Sec. 407; Executive Order 11336.
30. Programs which do not operate through producers, associations, cooperatives or other recipients.	Agricultural Adjustment Act of 1938; 7 U.S.C. 1301–1393, Pub. L. 73–430; Commodity Credit Corporation Charter Act, 15 U.S.C. 714, et seq; Agricultural Act of 1949; as amended; 7 U.S.C. 1421, et seq. Pub. L. 81–439; as amended; Agricultural and Food Act of 1961; Pub. L. 97–98; Dairy and Tobacco Adjustment Act of 1983; Pub. L. 98–180; Agricultural Programs Adjustment Act of 1984; Pub. L. 98–258; Food Security Act of 1985; Pub. L. 99–198.
31. Rice Program	Commodity Credit Corporation Charter Act; Pub. L. 80–89; Agricultural Act of 1949, as amended, 7 U.S.C. 1441, Pub. L. 81–439; Food Security Act of 1985, Pub. L. 99–198.
32. Rural Clean Water Program	Agricultural, Rural Development and Related Agencies Appropriations Act of 1980, Pub. L. 96–108; 93 Stat. 821, 835 and Pub. L. 96–528; 94 Stat. 3095, 3111.
33. Water Bank Program	Water Bank Act; Pub. L. 91–559; Pub. L. 96–182.
34. Wheat Program	Commodity Credit Corporation Charter Act. Pub. L. 80–89; Agricultural Act of 1949, as amended, 7 U.S.C. 1445; Pub. L. 81–439; Food Security Act of 1985; Pub. L. 99–198.
35. Wool and Mohair Incentive Payment Program	National Wool Act of 1954, as amended; 7 U.S.C. 1781–1787; Pub. L. 83–690; Agricultural and Food Act of 1981; Pub. L. 97–98; Food Security Act of 1985; Pub. L. 99–198.
Administered by the Economic Research Service	
36. Rural Economics Research Division	Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627.
37. International Economics Division	Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627
38. National Resource Economics Division	Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627.
39. National Economics Division	Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627.
Administered by Federal Crop Insurance Corporation	
40. Crop Insurance	Federal Crop Insurance Act, as amended, 7 U.S.C. 1501–1520; Title V of the Agricultural Adjustment Act of 1938; 52 Stat. 31 and Federal Crop Insurance Act of 1980, Pub. L. 96–385 (September 26, 1980), 94 Stat. 1312–1319.
41. Standardization Activities	Sec. 203(c) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1622(c).
42. Inspection Activities	Sec. 7 of the United States Grain Standards Act, as amended, 7 U.S.C. 79.

Program	Authority
43. Compliance Activities	Sec. 203(h) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1622(h).
44. Research and Development	Sec. 203 of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1622.
45. Weighing Activities	Sec. 7A of the United States Grain Standards Act, as amended, 7 U.S.C. 79a.
Administered by Farmers Home Administration	
46. Emergency Loans	Sec. 321-330 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1968.
47. Farm Operating Loans	Sec. 311, Title I of the Rural Development Act, as amended, 7 U.S.C. 1941.
48. Farm Ownership Loans	Sec. 302 of the Consolidated Farm and Rural Development Act, as amended; 7 U.S.C. 1922.
49. Section 502 Rural Housing Loans	Sec. 502, Title V, Housing Act of 1949, as amended, 42 U.S.C. 1471.
50. Rural Housing Loans and Grants (Section 504 repair loan and grant).	Sec. 504, Title V, Housing Act of 1949, as amended, 42 U.S.C. 1471.
51. Soil and Water Loans	Sec. 304 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924.
Administered by the Forest Service	
52. Permits for use of National Forests and National Greenlands by other than individuals at a nominal or no charge to any group.	Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 501 of the Federal Land Policy Management Act of 1976, 43 U.S.C. 1761; Term Permit Act of March 4, 1915; as amended, 16 U.S.C. 497; Secs. 3 and 4 of the American Antiquities Act of June 8, 1906, 16 U.S.C. 432; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011
53. Timber granted free or at nominal cost to any group.	Sec. 1 of the Act of June 4, 1897, as amended, 16 U.S.C. 551; Sec. 32 of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011.
54. Forest seedling production and distribution	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, 28 U.S.C. 2102.
55. Control of White Pine Blister Rust	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313; 16 U.S.C., Sec. 2104, (Insect and disease control, White Pine Blister Rust not specifically mentioned).
56. Protection of Forest Resources from insects, pests and diseases.	Cooperative Forestry Assistance Act of 1978, Pub. L. 95-313, 16 U.S.C. 2104.
57. Job Corps	29 U.S.C. 1691-1701. Note: This is a Federally-financed and conducted program providing education and skills training to young men and women. The U.S. Department of Labor is entirely responsible for recruiting of recipient youth.
58. Youth Conservation Corps	Act of August 13, 1970, as amended, 16 U.S.C. 1701-1706. Note: This is a Federally financed and conducted program on National Forest land providing summer employment to teen-age youth doing conservation work while learning about their natural environment and heritage. Recruitment of recipient youth is without regard to economic, social or racial classification. Policy requires that random selection from the qualified applicant pool be made in a public forum.
Administered by Food Safety and Inspection Service	
59. Meat and Poultry Inspection Program	Federal Meat Inspection Act; Pub. L. 90-201; 21 U.S.C. 601, et seq. Poultry Products Inspection Act; Pub. L. 90-492; 21 U.S.C. 601, et seq. Humane Slaughter Act; Pub. L. 85-765; 7 U.S.C. 1901, et seq.
60. Meat and Poultry Inspection Operations	Federal Meat Inspection Act; 21 U.S.C. 601, et seq. Poultry Products Inspection Act; 21 U.S.C. 451, et seq.
Administered by Human Nutrition Information Service	
61. Nutrient Data Research	National Agriculture Research Extension and Teaching Policy Act of 1977, Sec. 1428; 7 U.S.C. 3178a.
62. Guidance and Education Research	National Agriculture Research Extension and Teaching Policy Act of 1977, Sec. 1428; 7 U.S.C. 3178a.
63. Food Consumption Research	National Agriculture Research Extension and Teaching Policy Act of 1977, Sec. 1428; 7 U.S.C. 3178a.
64. Diet Appraisal Research	National Agriculture Research Extension and Teaching Policy Act of 1977, Sec. 1428; 7 U.S.C. 3178a.
Administered by National Agricultural Statistics Service	
65. Crop and Livestock Estimates	7 U.S.C. 292, 411a, 411b, 427, 471, 475, 476, 501, 951, 953, 955, 956, 957. Agricultural Marketing Act of 1946; 7 U.S.C. 1621-1627; 7 U.S.C. 2201, 2202, 2248, 3103, 3291, 3311, 3504; 22 U.S.C. 3101; 44 U.S.C. 3501-3511; 50 U.S.C. 2061, et seq. 50 U.S.C. 2251, et seq.
66. Statistical Research	Agricultural Marketing Act of 1946; 7 U.S.C. 1621.
Administered by the Office of Transportation	
67. Rural Transportation Development	Sec. 201 of the Agricultural Adjustment Act of 1938; 7 U.S.C. 1291; Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1662(j). International Carriage of Perishable Foodstuffs Act, 7 U.S.C. 4401, et seq.
68. Foreign Market Development	Section 201 of the Agricultural Adjustment Act of 1838; 7 U.S.C. 1291 and Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1661(j). International Carriage of Perishable Foodstuffs Act, 7 U.S.C. 4401, et seq.
69. Economic Analysis	Sec. 201 of the Agricultural Adjustment Act of 1938; 7 U.S.C. 1291 and Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. (1662(j)).
70. Facilities Research and Development	Sec. 201 of the Agricultural Adjustment Act of 1938, U.S.C. 1291 and Sec. 203(j) of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1662(j). International Carriage of Perishable Foodstuffs Act, 7 U.S.C. 4401, et seq.
Administered by Rural Electrification Administration	
71. Rural Electrification Loans and Loan Guarantees.	Titles I and II of the Rural Electrification Act of 1936, as amended; 7 U.S.C. 901-916, 931-940 (1982).
72. Rural Telephone, Loans and Loan Guarantees	Titles II and III of the Rural Electrification Act of 1936, as amended; 7 U.S.C. 922-924, 931-940 (1982).
73. Rural Telephone Bank Loans	Title IV of the Rural Electrification Act of 1936, as amended; 7 U.S.C. 941-950b (1982).
Administered by Soil Conservation Service	
74. Snow Survey and Water Supply Forecasting	Soil Conservation and Domestic Allotment Act, Pub. L. 74-46; 16 U.S.C. 590a-590f, 590g.

Program	Authority
75. Inventory and Monitoring	Secs. 1-6 and 17 of the Soil Conservation and Domestic Allotment Act, as amended; 16 U.S.C. 590a-590f, 590g, Sec. 502 of the Rural Development Act of 1972, 7 U.S.C. 1010a.
76. River Basin Surveys and Investigations	Watershed Protection and Flood Prevention Act; Pub. L. 83-566, as amended, Sec. 6, 16 U.S.C. 1006.

Done this 2nd day of May 1988 in Washington, DC.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88-10071 Filed 5-5-88; 8:45 am]

BILLING CODE 3410-94-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-33-AD]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain CASA Model C-212 series airplanes, which currently requires replacement of the power quadrant cover with a cover incorporating slot protection. That action was prompted by reports that additional protection was needed to prevent foreign objects from dropping in to the pedestal which could jam or interfere with the power or trim control system, and cause partial loss of controllability of the airplane. This action would expand the applicability of the existing AD to include additional U.S.-registered airplanes.

DATE: Comments must be received no later than June 8, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Contrucciones Aeronauticas S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Armella Donnelly, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-33-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On September 17, 1987, FAA issued AD 87-05-05-R1, Amendment 39-5738 (52 FR 38745; October 19, 1987), applicable to certain CASA Model C-212 series airplanes, to require replacement of the power control quadrant cover with a modified cover on CASA Model C-212 series airplanes, in accordance with CASA Service Bulletin 212-76-05, Revision 1A, dated August 8, 1986. The modified cover incorporates slot protection, the purpose of which is to prevent objects from falling into the open slots and jamming or interfering with the power or trim control system. This condition, if not corrected, could result in partial loss of controllability of the airplane.

Since issuance of that AD, the FAA has been notified that 8 additional affected U.S.-registered CASA C-212 airplanes were not identified in the effectivity of the CASA Service Bulletin.

CASA has now issued Service Bulletin 212-76-05, Revision 1, dated July 20, 1987, which includes the 8 additional airplanes in its effectivity.

Since the unsafe condition addressed in AD 87-05-05-R1 is likely to exist or develop on other airplanes of this same type design registered in the U.S., an AD is proposed which would expand the applicability of AD 87-05-05-R1 to include all affected U.S-registered airplanes, and reflect Revision 1 of the service bulletin in the requirements of the AD. This action would ensure that all affected airplanes replace the power control quadrant cover.

Additionally, the compliance time of the AD would be revised from "prior to February 28, 1988" to "within 3 months after the effective date of the final rule." This revision would provide adequate time for operators now affected by this action to order and install the required modification parts.

It is estimated that 8 additional airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Modification parts are estimated at $553 per airplane. Based on these figures, the total cost impact of this amendment on U.S. operators is estimated to be $5,384.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have

federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($673). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 87–05–05–R1, Amendment 39–5738 (52 FR 38745; October 19, 1987), by revising the applicability statement and paragraph A., as follows:

CASA: Applies to all Model C–212 series airplanes, certificated in any category. Compliance is required within 3 months after the effective date of this AD, unless previously accomplished.

To prevent the entry of foreign objects into the power and trim controls in the pedestal, accomplish the following:

A. Replace the power quadrant cover with a cover incorporating slot protection, in accordance with CASA Service Bulletin 212–76–05, Revision 1A, dated August 7, 1986, or Revision 1, dated July 20, 1987.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Contrucciones Aeronauticas S.A., Getafe, Madrid, Spain. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 25, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10047 Filed 5–5–88; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 87–ASW–56]

Proposed Revision of Transition Area; Brenham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Brenham, TX. The development of a new standard instrument approach procedure (SIAP) to the Brenham Municipal Airport utilizing the College Station Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC) has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing all SIAP's serving the airport.

DATES: Comments must be received on or before June 6, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87–ASW–56, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASW–56." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Brenham, TX. The development of a new SIAP to the Brenham Municipal Airport, utilizing the College Station VORTAC, has necessitated this proposed revision. The transition area would increase from the present 5-mile radius of the airport to a 6.5-mile radius

of the airport. The existing northwest arrival extension would remain the same. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing all SIAP's now serving the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Brenham, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Brenham Municipal Airport (latitude 30°13'00" N., latitude 96°22'25" W.) and within 3 miles each side of the 341° bearing from the Brenham NDB (latitude 30°13'20" N., longitude 96°22'22" W.), extending from the 6.5-mile radius area to 8 miles northwest of the Brenham Municipal Airport.

Issued in Fort Worth, TX, on April 21, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-10046 Filed 5-5-88; 8:45 a.m.]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-66]

Proposed Revision of Transition Area; Brownwood, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Brownwood, TX. The development of a new standard instrument approach procedure (SIAP) to Runway 35 at the Brownwood Municipal Airport, utilizing the Brownwood Very High Frequency Omnidirectional Radio Range (VOR), has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing all SIAP's serving the airport.

DATE: Comments must be received on or before June 6, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87-ASW-66, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-66." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Brownwood, TX. The development of a new SIAP to Runway 35 at the Brownwood Municipal Airport, utilizing the Brownwood VOR, has necessitated this proposed revision. The existing 700-foot transition area would remain the same, with a new arrival extension being added south of the airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing all SIAP's now serving the Brownwood Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Brownwood, TX [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Brownwood Municipal Airport (latitude 31°47'37" N., longitude 98°57'22" W.), and within 5.5 miles each side of the 179° radial of the Brownwood VOR (latitude 31°53'33" N., longitude 98°57'26" W.), extending from the 8.5-mile radius area to 16 miles south of the Brownwood Municipal Airport.

Issued in Fort Worth, TX, on April 21, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88–10045 Filed 5–5–88; 8:45 a.m.]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CGD7–88–8]

Drawbridge Operation Regulations; Great Canal, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Tortoise Island Homeowners Association, the Coast Guard is considering a change to the regulations governing the Tortoise Island drawbridge by requiring that advance notice for opening be given during certain periods. This proposal is being made because of a lack of requests to open the bridge at night. This action would relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 20, 1988.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050. The comments and other materials referenced in this notice will be available for inspection and copying on the 4th Floor of the Brickell Plaza Federal Building, 909 SE 1st Ave., Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536–4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The bridge is presently opened on signal. In a recent 9 month period there were only 12 requests for openings between 10 p.m. and 6 a.m. Most of these openings were during summer weekends. This proposal will provide for bridge openings on demand, except during weekday evening hours when 15 minutes advance notice will be required. Notification will be given by telephone or radio to the Tortoise Island Gatehouse which is manned 24 hours per day. The proposed rule is similar to the existing operating rule for the Mathers swingspan bridge at Indian Harbor Beach which provides access to the Indian River for the majority of vessels transiting the Great Canal.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because there are few openings during the proposed advance notification period. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Part 117 is proposed to be amended by adding a new § 117.285 to read as follows:

§ 117.285 Great Canal.

(1) The draw of the Tortoise Island bridge, mile 2.6, shall open on signal, except that from 10 p.m. to 6 a.m. Monday through Friday except Federal holidays, the draw shall open on signal if at least 15 minutes notice is given.

Dated: April 19, 1988.

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 88–10062 Filed 5–5–88; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 200

Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965; Financial Assistance to Meet Special Educational Needs of Children

AGENCY: Department of Education.

ACTION: Notice of regional meetings.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education of the U.S. Department of Education will convene five regional meetings to solicit input for the Department on the content of proposed regulations under Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965. These meetings will include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation of local educational agency programs under Chapter 1.

DATES: The regional meetings are scheduled to be held as follows:

May 23, 24, 25—Atlanta, Georgia
May 26–27—Philadelphia, Pennsylvania
June 1–2—Indianapolis, Indiana
June 6, 7, 8—Denver, Colorado
June 9–10—San Francisco, California

SUPPLEMENTARY INFORMATION: Section 1431(b)(1) of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 requires the U.S. Department of Education to "convene regional meetings which shall provide input to the Secretary on the content of proposed regulations." These meetings must include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of local educational agency programs under Chapter 1. To meet this requirement, the Assistant Secretary for Elementary and Secondary Education will convene five meetings on the dates and at the locations listed in this notice. Each meeting will begin at 9:00 a.m. on the first day and end at approximately 3:00 p.m. on the second day.

The Assistant Secretary has asked each Chief State School Officer and a number of educational organizations and interest groups to nominate representatives to attend these meetings. The Assistant Secretary anticipates that approximately 225 persons will attend each meeting. The meetings will focus primarily on the following topics: parental involvement, targeting of schools, schoolwide projects, program improvement, State administration, and national evaluation standards. However, additional issues may be discussed as time permits.

On May 25 in Atlanta and June 8 in Denver, a separate session will be held from 9:00 a.m. to 1:00 p.m. to discuss issues solely related to national evaluation standards for the migrant education program under Chapter 1.

FOR FURTHER INFORMATION CONTACT: Other persons interested in attending one of the meetings should contact Carol Chelemer, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 732–4705.

(Catalog of Federal Domestic Assistance No. 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: May 3, 1988.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education

[FR Doc. 88–10139 Filed 5–5–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Health Professions Projects in Geriatrics

AGENCY: Public Health Service, HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document proposes regulations for governing Grants for Health Professions Projects in Geriatrics, authorized by section 788(d) of the Public Health Service Act (the Act), as amended. It establishes project requirements and criteria for application evaluation.

DATE: Comments must be received no later than July 5, 1988.

ADDRESS: Written comments should be addressed to J. Jarrett Clinton, M.D., Director, Bureau of Health Professions (BHPr), Health Resources and Services Administration, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Support, BHPr, Room 7–74, Parklawn Building, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: William Koenig, Deputy Chief, Associated Health Professions Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–103, 5600 Fishers Lane, Rookville, Maryland 20857; telephone number: 301 443–6887.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, proposes to add a new Subpart OO to Part 57 of Title 42 of the Code of Federal Regulations to implement section 788(d) of the Public Health Service Act (the Act). Section 788(d), as revised by Pub. L. 99–129 and Pub. L. 99–660, authorizes the Secretary to make grants to and enter into contracts with accredited schools of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, chiropractic, allied health, and programs for the training of physician assistants to assist in meeting the costs of projects to:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction (other than training and retraining of faculty for schools of medicine and osteopathy);

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

The Department proposes to implement section 788(d) by awarding grants for projects which support one or more of the statutory purposes and provides assistance to either a single health professions school or program, or a group of such schools or programs. This approach is proposed for the following reasons:

1. The Department recognizes that the purposes listed in section 788(d)(1) are not mutually exclusive, but encompass the range of interrelated efforts (such as developing curriculum, training health professionals and faculty, and establishing affiliations to provide students with clinical training) which national scientific and educational organizations have urged health professions schools to undertake.

2. The Department believes that these purposes should be addressed through cooperative efforts of schools representing several of the health professions necessary to provide health care to the aged, as well as projects involving a single profession. This flexible approach emphasizes that health professionals in virtually all professions need to be better prepared

to address the needs of an increasing elderly population. To encourage cooperation among eligible health professions schools and make maximum use of available resources, the Department wishes to emphasize that projects under this authority may involve collaborative participation of various types of health professions schools and programs identified in section 788(d).

Pub. L. 99–660 amended section 788(d)(1)(D) by excluding projects for training and retraining of faculty for schools of medicine and osteopathy under this section, and concurrently establishing a new section 788(e) of the Act authorizing separate support for projects to provide 1- or 2-year internal medicine or family medicine fellowship programs. The Department believes this amendment was intended to prevent training programs eligible under section 788(e) of the Act from being supported under section 788(d) of the Act, and not to exclude all medical school faculty from participating in short-term and other training activities under section 788(d) of the Act. Therefore, this notice proposes a definition of "training and retraining of faculty" which excludes the type of training and retraining authorized under section 788(e) of the Act. This definition is meant to clarify that faculty of schools of medicine and osteopathy are eligible to enroll in and attend courses supported under section 788(d), as long as the courses are not the type of training eligible for support under section 788(e).

In determining the priority for funding applications approved under this grant program, the Secretary will consider any special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**. (See § 57.4005, entitled *"How will applications be evaluated?"*) At that time, public comments on the proposed special factors will be solicited.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern a financial assistance program in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

Section 57.4009 contains information collection requirements which are subject to review by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980. We have submitted a copy of these information collection requirements to OMB for approval. Other organizations and individuals desiring to submit comments on the information collections should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20205, ATTN: Desk Officer for HHS.

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study program, Emergency medical services, Grant programs-health, Health facilities, Health professions, Loan programs-health, Medical and dental schools, Scholarships and fellowships, Student aid.

Dated: January 27, 1988.

Robert E. Windom,

Assistant Secretary for Health.

Approved: March 9, 1988.

Otis R. Bowen,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.969, Grants for the Training of Health Professions in Geriatrics)

It is therefore proposed to add a new Subpart OO to Part 57 of Title 42 of the Code of Federal Regulations, as set forth below.

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

1. 42 CFR Part 57 is amended by adding a new Subpart OO, entitled "Grants for Health Professions Projects in Geriatrics" to read as follows:

Subpart OO—Grants for Health Professions Projects in Geriatrics

Sec.

Subpart OO—Grants for Health Professions Projects in Geriatrics

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 788(d) of the Public Health Service Act, 99 Stat. 542 (42 U.S.C. 295g–8).

§ 57.4001 To what projects do these regulations apply?

These regulations apply to grants to eligible schools and programs under section 788(d) of the Public Health Service Act for geriatric training projects.

§ 57.4002 Definitions.

"Act" means the Public Health Service Act, as amended.

"Allied health professional" means an individual who has received a certificate, an associate degree, a bachelor's degree, a master's degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care and meets the requirements as established in section 701(13) of the Act.

"Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

"Continuing Education" means structured educational programs for practicing health professionals and allied health professionals for the purpose of improving the knowledge and skills in geriatrics of such practitioners with respect to treatment of the health problems of elderly individuals.

"Geriatric Medicine" means the prevention, diagnosis, care and treatment of illness and disability as required by the distinct needs of the elderly.

"Geriatrics" is the total health and social care of the elderly.

"Health professional" means any allopathic or osteopathic physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, physician assistant, chiropractor, or allied health professional.

"Health professions school" means any accredited school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, public health, and chiropractic as defined in section 701(4) of the Act and as accredited in section 701(5) of the Act.

"Nonprofit" means an entity owned and operated by one or more

corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Program for the training of physician assistants" means any educational program as defined in section 701(8) of the Act.

"Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

"Project period" means the total time for which support for a project has been approved including any extensions of the project.

"School of allied health" means a public or nonprofit private junior college, college, or university which provides or can provide a program of education to enable individuals to become allied health professionals or to provide additional training for allied health professions and which meets the criteria set forth in section 701(10) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

"Training and retraining of faculty" means a program to train and retrain faculty to provide geriatric instruction which is not a 1-year retraining program for faculty in schools of medicine and osteopathy in geriatrics or a 1-year or 2-year internal medicine or family medicine fellowship program as identified in section 788(e)(3) of the Act.

§ 57.4003 Who is eligible to apply for a grant?

Any public or nonprofit health professions school, school of allied health, or program for the training of physician assistants located in a State may apply for a grant under this subpart. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at the time the Secretary may prescribe.[1]

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

§ 57.4004 Project Requirements.

(a) The Secretary will award grants to meet the cost of carrying out one or more of the following six purposes:

(1) Improve the training of health professionals in geriatrics;

(2) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(3) Expand and strengthen instruction in methods of geriatric treatment;

(4) Support the training and retraining of faculty;

(5) Support continuing education of health professionals and allied health professionals who provide geriatric treatment; and

(6) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Projects may include one or more of the activities in (a)(1)–(6) for one or more types of health professionals as defined in § 57.4002 of this subpart.

(b) Each project must evaluate the program systematically, including the determination of a baseline at the outset of the project and the measurement of the degree to which program and educational objectives are met.

§ 57.4005 How will applications be evaluated?

(a) After a peer review group, as required by section 788(d)(2)(B) of the Act, composed principally of non-Federal experts, makes recommendations concerning each application, the Secretary will consult with the National Advisory Council on Health Professions Education, established in section 702 of the Act, with respect to such applications. The Secretary will decide which applications to approve by considering, among other factors:

(1) The degree to which the proposed project adequately provides for the project requirements described in § 57.4004;

(2) The extent to which the rationale and specific objectives of the project are based upon a needs assessment of the status of geriatrics training in the institutions to be assisted and/or the geographic area to be served.

(3) The ability of the project to achieve the project objectives within the proposed geographic area.

(4) The adequacy of educational facilities and clinical training settings to accomplish objectives.

(5) The adequacy of organizational arrangements involving professional schools and other organizations necessary to carry out the project.

(6) The adequacy of the qualifications and experience in geriatrics of the project director, staff and faculty;

(7) The administrative and managerial ability of the applicant to carry out the proposed project in a cost-effective manner; and

(8) The potential of the project to continue on a self-sustaining basis.

(b) In determining the priority for funding applications approved under paragraph (a) of this section, the Secretary will consider any special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**.

§ 57.4006 How long does grant support last?

(a) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed 5 years.

(b) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, existence of legislative authority, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

§ 57.4007 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.4008 What additional Department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 83—Regulation for the administration and enforcement of sections 799A and 845 of the Public Health Service Act [2]
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

§ 57.4009 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

[2] Section 799A of the Public Health Service Act was redesignated as section 704 by Pub. L. 94-484; section 845 of the Public Health Service Act was redesignated as section 855 by Pub. L. 94-63.

§ 57.4010 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 88-9879 Filed 5-5-88; 8:45 am]
BILLING CODE 4160-15-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1135 and 1145

[Ex Parte Nos. 394 and 290; Sub Nos. 3 and 2]

Cost Ratios for Recyclables; Compliance and Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of availability of environmental assessment and request for comments.

SUMMARY: An environmental assessment (EA) has been prepared for this proceeding which proposes to adopt regulations implementing the Congressionally-mandated rate limitations on the rail movement of recyclable materials other than iron and steel (see 51 FR 21780, June 16, 1986, and 52 FR 13482, Apr. 23, 1987, and 49 U.S.C. 10731(e)). The EA concludes that the adoption of this action would not have a significant impact on the quality of the human environment or on energy consumption. The EA identifies potential environmental effects of this action, and concludes that the potential environmental benefits would be greater than any remotely possible adverse environmental effects. The EA will be served on all parties of record. Other interested parties may receive copies of the EA from the contact peson listed below.

DATE: Comments are requested and should be filed by June 6, 1988.

ADDRESS: Send an original and one copy of pleadings addressed to: (1) Ex Parte No. 394 (Sub-No. 3) and Ex Parte No. 290 (Sub-No. 2), Environmental Assessment, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Dennis B. Wierdak (Telephone 202-275-0841 or 275-0800).

Assistance for the hearing-impaired is available through TDD services (202) 275-1721.

Authority: 42 U.S.C. 4321, et seq.

Noreta R. McGee,
Secretary.

[FR Doc. 88-10101 Filed 5-5-88; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Addition of Five National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird, Upland Game, and Big Game Hunting, and Two to the List for Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to add five national wildlife refuges (NWRs) to the lists of open areas for migratory game bird, upland game, and/or big game hunting, and two NWRs to the list for sport fishing. The Service has determined that such uses would be compatible with and, in some cases, enhance the major purposes for which each refuge was established. The Service has further determined that this action would be in accordance with the provisions of all applicable laws, would be consistent with the principles of sound wildlife management, and would otherwise be in the public interest by providing additional recreational opportunities.

DATE: Comments must be received on or before June 6, 1988.

ADDRESSES: Address comments to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Room 3248, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David E. Heffernan, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets NW., Room 2343, Washington, DC 20240; Telephone (202) 343-1014.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purpose(s) for which the refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be

consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open five refuges to hunting and two to sport fishing. Some of the proposed hunting and fishing programs require refuge-specific hunting or fishing regulations. These regulations will be included in a separate rulemaking document on refuge-specific hunting and fishing regulations.

Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding the opening of the refuges cited below to migratory game bird, upland game or big game hunting, and/or sport fishing. Accordingly, interested persons may submit written comments concerning this proposal to the Assistant Director—Refuges and Wildlife (address above) by the end of the comment period. All relevant comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460K) govern the administration and public use of national wildlife refuges. Specifically section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary.

The Refuge Recreation act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this act, the Secretary is required to determine that funds are available for the development, operation, and maintenance of these permitted forms of recreation.

In accordance with the NWRSAA and the Refuge Recreation Act, the Secretary has determined that the proposed openings for hunting and fishing would be compatible and consistent with the primary purposes for which each of the refuges listed below was established, and that funds are available to administer these programs. The hunting and fishing programs will be within State and Federal (migratory game bird) regulatory frameworks. A discussion of the compatibility of the hunting and fishing programs with the purpose(s) for which each refuge was established and the availability of funding for each program follows:

Cache River NWR was established in June 1987, by authority of the Migratory Bird Conservation Act to protect and preserve a portion of internationally significant waterfowl habitat. The bottomland hardwood forest contained within the refuge serves as important wintering habitat for mallards and excellent year-round habitat for a variety of other wildlife species. It is proposed to open the refuge to migratory game bird (waterfowl, dove, woodcock, snipe), upland game (squirrel, rabbit, quail, raccoon) and big game (deer) hunting, as well as sport fishing. Present numbers of included wildlife species are large enough to support a hunting and fishing program and provide for the beneficial use of a renewable resource. The proposed activities would not interfere with the continued protection and preservation of the bottomland hardwood forest and its ability to provide for migratory waterfowl throughout the year. Refuge-specific regulations would reduce any time and space conflicts between these activities and other permitted uses. By ensuring that the populations of key wildlife species, particularly deer, are maintained within the capacity of the available habitat to support them, the important hardwood tree species typical of the bottomland forest will continue to be preserved and food will be available for all species of wildlife. A section 7 evaluation under the Endangered Species Act concludes that the proposed programs "will not affect" any listed endangered or threatened species. Opening the refuge to hunting and sport fishing would contribute to the attainment of refuge objectives in terms of wildlife—oriented recreation, would be compatible with the purpose for which the refuge was established and thus be in compliance with the NWRSAA. The annual cost to administer the programs is estimated at $13,000. Within the current annual refuge complex budget of $357,000 the necessary funds are available to administer these programs. Therefore, opening the Cache River NWR to hunting and sport fishing would be in compliance with the Refuge Recreation Act.

Edwin B. Forsythe NWR was created in 1984 by combining the former Brigantine (established in 1939 by authority of the Migratory Bird Conservation Act) and Barnegat (established in 1967, same authority) NWRs and renaming the refuge after the late New Jersey congressman. The purpose of the refuge is to provide habitat for migratory birds, particularly black ducks and Atlantic brant. It is proposed to open the refuge to big game (deer) hunting. The purpose of the hunt is to maintain the refuge deer herd within the carrying capacity of the habitat and provide for the use of a renewable natural resource. The deer herd is currently near the carrying capacity of the habitat and it is likely that it will exceed this capacity in the near future. Overbrowsing by a large population of deer will adversely impact important habitat used by migratory birds thereby reducing the ability of the refuge to meet its primary purpose. The hunting activity itself would generally be confined to the upland areas of the refuge and cause minimal disturbance to migratory birds. Refuge regulations would be established to ensure the objectives of the deer hunt are met and to reduce space and time conflicts with other permitted uses. A Section 7 evaluation concludes that the proposed program "will not affect" any listed endangered or threatened species. Opening the refuge to big game hunting would enhance the ability of the refuge to achieve its primary purpose, is compatible with the purpose of the refuge, and would be in compliance with the NWRSAA. The estimated annual cost of the hunting program is $6,800. Within the current annual budget for the refuge, the necessary funds are available to administer the proposed hunting program. Therefore, opening Edwin B. Forsythe NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Supawna Meadows NWR was established in 1934 by Executive Order 6582 as a refuge and breeding ground for wild birds and animals. Originally known as the Goose Pond Addition to the Killcohook Migratory Bird Refuge, the Supawna Meadows portion was separated from Killcohook (now known as the Killcohook Coordination Area) and renamed the Supawna Meadows National Wildlife Refuge in 1974. It is proposed to open the refuge to big game (deer) hunting. Current habitat conditions indicate a deer population exceeding the capacity of the area and further habitat deterioration is likely

unless numbers are reduced. Frequent deer/vehicle collisions on public roads surrounding the refuge and complaints of crop depredations from farmers around the refuge also indicate a high population. A deer population exceeding the capacity of its habitat to support it results in the deterioration of that habitat and is detrimental not only to the deer population but also the wide variety of other wild birds and animals found there. Such deterioration would be in direct conflict with the purpose of the refuge. A section 7 evaluation concludes that the proposed hunting program "will not affect" any endangered or threatened species. Opening Supawna Meadows NWR to big game hunting would therefore be supportive of and compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of administering the hunting program is $6,000. Within the current refuge budget funds are sufficient to carry out the proposed program. Therefore, opening Supawna Meadows NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Little River NWR was established in 1987 by authority of the Migratory Bird Conservation Act to preserve bottomland hardwood habitat for migratory waterfowl, particularly mallards and wood ducks. It is proposed that the refuge be opened to upland game hunting (rabbit and squirrel) and sport fishing. Both of these activities would provide the public with an opportunity to enjoy wildlife-oriented activities while at the same time utilizing a renewable natural resource. Hunting of rabbits and squirrels will not interfere with the continued preservation of the bottomland hardwood habitat nor cause undue disturbance to migratory waterfowl. As hunting would be taking place on the upland portions of the refuge and largely before significant numbers of waterfowl are present, such hunting is compatible with refuge purposes. The sport fishing program would be confined to major stream courses and would pose no conflicts with waterfowl production. A section 7 evaluation concludes that the programs "will not affect" the continued existence or habitat of any endangered or threatened species. Opening Little River NWR to upland game hunting and sport fishing would be compatible with the purpose for which the refuge was established and therefore in compliance with the NWRSAA. The annual cost of administering the program is estimated at $2,000. Within the current annual refuge budget of $130,600 the necessary funds are available to administer these programs. Therefore, the opening of Little River NWR to upland game hunting and sport fishing would be in compliance with the Refuge Recreation Act.

Salt Plains NWR was established in 1930 by Executive Order 5314 for the purpose of providing a migration, resting and wintering area for migratory birds. It is proposed to open the refuge to migratory birds and upland game hunting. Present populations of species to be hunted (primarily mourning doves and quail) are adequate to support such a program and provide for the public use of renewable natural resources. Under the proposed program only a small portion of the refuge (about 4% of total area, comprised of upland and associated croplands) will actually be hunted thus reducing disturbance to migratory birds on the main portion of the refuge (Salt Plains Reservoir) to a minimum. The area proposed for hunting is used only sparingly by waterfowl but provides good conditions for mourning doves and quail and other upland species. Refuge regulations would limit time and space conflicts with other permitted uses. A section 7 evaluation of the program concludes that opening the refuge to these activities "will not affect" the continued existence or habitat of any endangered or threatened species. Potential conflicts between hunt participants and listed species (whooping crane, bald eagle, interior least tern) would be avoided by leaving those areas frequented by these species (mainly the reservoir area) closed to public use. Opening the refuge to migratory birds and upland game hunting would contribute to the attainment of refuge objectives in terms of providing opportunities for wildlife—oriented recreation, would be compatible with the purpose for which the refuge was established and thus in compliance with the NWRSAA. The annual cost to administer the programs is estimated at $2,100. Within the current annual refuge budget of $229,500 adequate funds are available to administer the programs. Therefore, opening Salt Plains NWR to migratory birds and upland game hunting would be in compliance with the Refuge Recreation Act.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that the proposed opening of these refuges to hunting and fishing will generate approximately 71,550 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, and the 1987 Economic Report of the President (Consumer Price Index), total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately $2,406,429, or substantially less than $100 million. In addition, since these estimated receipts will be spread over three states, the implementation of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule would have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The proposed openings would provide recreational opportunities and generate economic benefits that would not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule would be considerably less than the income generated from the implementation of these hunting and/or sport fishing programs.

Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C), environmental assessments have been prepared for these proposed openings. Section 7 evaluations have been prepared pursuant to the Endangered Species Act. These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, or by mail, addressing the Director at the above address.

David E. Heffernan, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, it is proposed to amend Parts 32 and 33 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 would continue to read as follows:

Authority:. 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.11 would be amended by adding Cache River NWR, AR, and Salt Plains NWR, OK, alphabetically by State as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Arkansas

Cache River National Wildlife Refuge

* * * * *

Oklahoma

* * * * *

Salt Plains National Wildlife Refuge

* * * * *

3. Section 32.21 would be amended by adding Cache River NWR, AR, Little River NWR, OK, and Salt Plains NWR, OK, alphabetically by State as follows:

§ 32.21 List of open areas; upland game.

* * * * *

Arkansas

* * * * *

Cache River National Wildlife Refuge

Oklahoma

Little River National Wildlife Refuge

* * * * *

Salt Plains National Wildlife Refuge

* * * * *

4. Section 32.31 would be amended by adding Cache River NWR, AR, Edwin B. Forsythe NWR, NJ, and Supawna Meadows NWR, NJ, alphabetically by State as follows:

§ 32.31 List of open areas; big game.

* * * * *

Arkansas

* * * * *

Cache River National Wildlife Refuge

* * * * *

New Jersey

Edwin B. Forsythe National Wildlife Refuge

* * * * *

Supawna Meadows National Wildlife Refuge

PART 33—[AMENDED]

1. The authority citation for Part 33 would continue to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460K, 664, 668dd, 715i.

2. Section 33.4 would be amended by adding Cache River NWR, AR, and Little River NWR, OK, alphabetically by State as follows:

§ 33.4 List of open areas; sport fishing.

* * * * *

Arkansas

* * * * *

Cache River National Wildlife Refuge

* * * * *

Oklahoma

Little River National Wildlife Refuge

* * * * *

Dated: April 18, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-10086 Filed 5-5-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 80461-8061]

Status of Steller Sea Lions in Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: Based on a preliminary review of a status report on the Steller sea lion in Alaska, NMFS intends to publish a proposed rule designating this population as depleted under the Marine Mammal Protection Act (MMPA). If this population stock is designated as depleted, the MMPA requires the application of certain additional restrictions on taking and importation. In this instance, based on recent court decisions, restrictions on commercial fishing in the North Pacific Ocean and Bering Sea are possible consequences of this rulemaking.

DATE: Comments must be submitted on or before July 5, 1988.

ADDRESS: Comments should be mailed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs (F/PR), NMFS, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 202-673-5351.

SUPPLEMENTARY INFORMATION: On April 24, 1987, NMFS announced its intention to prepare a report on the population status of Steller sea lions to determine abudnance and trends (52 FR 13743). The resultant report, entitled "Status Review, Northern (Steller) Sea Lion (*Eumetopias jubatus*) in Alaska" (January 1988), concludes that the number of adult and juvenile sea lions observed on rookeries in southwest Alaska declined at least 52 percent from approximately 140,000 in 1956-60 to about 68,000 in 1985. Copies of this report are available from the information contact noted above. In addition, copies of the report and this notice are being sent to over 75 interested individuals, agencies, and organizations.

Decline Rates

Although the number of Steller sea lions has declined throughout Alaska (52 percent overall in 27 years), the greatest decline has been observed in the eastern Aleutian Islands (−79 percent) and western Gulf of Alaska (−73 percent).

Declines have also occurred in the central Gulf of Alaska (−31 percent) and central Aleutian Islands (−8 percent). These declines may have occurred in two phases. The first phase probably began in the early 1970s and was confined to the eastern Aleutian Islands and western Gulf of Alaska. Numbers of sea lions in the Aleutians and Gulf of Alaska fell by 25 percent (−1.6 percent per year) between 1958–77. Numbers in the eastern Aleutian Islands appeared to stabilize in the mid–1970s while those in the central Aleutians and western Gulf may have increased slightly. A second phase of the decline probably began during the late 1970s affecting all areas and resulting in a further decline of 36 percent (−5.2 percent per year) between 1977–85. During 1986–87, counts of adults and pups at Marmot Island, the largest rookery in Alaska, indicate that the decline is continuing. Pups counted at Marmot Island totalled 6,741 in 1979, 4,286 in 1986 and only 2,910 in 1987.

Possible Causes of Decline

Fisheries-related mortality factors have been examined as possible causes of the observed declines in Steller sea lions. These factors include incidental take in the course of commercial fishing in the Bering Sea and North Pacific Ocean, directed killing of sea lions by fishermen, changes in quantity or quality of prey species, especially walleye pollock, and entanglement in lost or discarded fishing gear or other debris. NMFS is also examining reproduction and natural mortality rates, changes in environmental carrying capacity, oceanographic conditions, disease and toxic substances, predation, and the effects of past commercial and subsistence harvests. However, data gaps exist that preclude final conclusions regarding the factors contributing to the decline.

Population Status

The Marine Mammal Protection Act of 1972 (MMPA), 16 U.S.C. 1361–1407, states that marine mammal species and population stocks should not be permitted to diminish below their optimum sustainable population (OSP). NMFS has defined OSP as a range of population levels from the largest supportable within the ecosystem (carrying capacity) to the population level that results in maximum net productivity (MNP). MNP is the greatest net annual increment in population numbers resulting from additions to the population due to reproduction and growth, less losses due to natural mortality (See 50 CFR 216.3 and 51 FR 47156, December 30, 1986). MNP is often represented as a percentage of carrying capacity. For example, in northern fur seals, MNP occurs when the population is at about 60 percent of its carrying capacity. In general, populations of large mammals appear to grow most rapidly when at numbers greater than 50 percent of carrying capacity.

The current population level of Steller sea lions in most of Alaska (68,000) is about 48 percent of the population level observed during 1956–60 (140,000). However, the counts made during 1956–60 are now believed to have underestimated sea lion numbers because they were conducted before the season of peak abundance and some haul-out sites were missed. Therefore, the current population may be below 50 percent of historic carrying capacity and below the lower bound of OSP for this population.

The MMPA defines "depletion" to mean, among other things, "any case in which the Secretary [of Commerce], after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under * * * this Act, determines that a species or population stock is below its [OSP]." NMFS will request consultation and concurrence by the Marine Mammal Commission before publishing a proposed rule regarding depletion of this population.

Consequences of a Depletion Designation

Under the MMPA, NMFS must make a depletion determination solely on the basis of the available biological information. NMFS has no discretion to consider the potential consequences of a depletion designation. Nevertheless, NMFS is requesting comments on both the scientific information presented above and on impacts that may ensue as a consequence of the expected designation. NMFS wants to determine, at the earliest possible date, what other regulatory, administrative, or legislative actions may be appropriate to address any public concerns.

Currently, once a species or population stock has been designated as depleted, there are only three categories of allowable takes. Alaska Natives may take depleted species for subsistence and handicraft purposes. Permits may be issued authorizing takings for research purposes; and small incidental takes that have a negligible impact on the population may be authorized for certain activities. However, a number of restrictions apply to taking of depleted species including a prohibition on takes in the course of commercial fishing (MMPA, 16 U.S.C. 1371(a)(3)(B)).

Six domestic general permits issued by NMFS in 1984 authorize the incidental take of Steller sea lions and other marine mammals in the North Pacific Ocean. A total of 2,880 Steller sea lions are authorized to be taken annually incidental to commercial fishing operations. These five-year permits expire on December 31, 1988. If Steller sea lions are designated as depleted, NMFS under present law cannot issue permits for their incidental take, although it is known that these animals will inevitably be taken in the course of some fisheries operations.

NMFS has interpreted its authority under the NMFS to include discretion to issue permits for incidental taking when populations covered by the permit will not be disadvantaged, without requiring proof that all other species that might possibly be taken are also within OSP. However, in a recent decision involving a permit issued to the Federation of Japan Salmon Fisheries Cooperative Association (Federation) to take Dall's porpoises incidental to commercial salmon fishing, a much stricter interpretation of the MMPA has been adopted by the courts (*Kokechik Fishermen's Ass'n et al. v. Secretary of Commerce, et al.*, No. 87–5239, slip op. (D.C. Cir. February 16, 1988). The courts considered whether or not NMFS may legally issue a permit allowing incidental taking of one protected marine mammal population that was above OSP knowing that other protected marine mammals (not demonstrably at OSP) would also be taken. The courts held the permit NMFS issued to the Federation to be invalid and "contrary to the requirements of the MMPA." NMFS is seeking additional review of this decision.

In response to concerns about impacts on commercial fisheries that have arisen out of this case, NMFS announced FR 19874, May 28, 1987). This amendment would allow incidental, but not intentional, takings of small numbers of depleted marine mammals by vessels engaged in commercial fishing if such taking will have only a negligible impact on the affected population. NMFS is considering whether or not it can reissue domestic general permits for fisheries that may also take either depleted stocks or species for which no OSP determination has been made (See 53 FR 2069, January 26, 1988). Consequences of a depletion determination for Steller sea lions will depend on these deliberations and on potential Congressional action on MMPA reauthorization during 1988.

Date: May 2, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 88-10097 Filed 5-5-88; 8:45 am]

BILLING CODE 3510-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[Common Carrier Docket No. 87-215; FCC 88-151]

Enhanced Service Providers

AGENCY: Federal Communications Commission (FCC).

ACTION: Termination of proposed rule.

SUMMARY: This Order terminates CC Docket No. 87-215 in which the Commission proposed to eliminate the exemption from interstate access charges currently permitted enhanced service providers. The Commission has concluded that it would not be appropriate at this time to go further with this rulemaking.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ruth Milkman, tele: (202) 632-6363.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in Common Carrier Docket 87-215, FCC 88-151, Adopted April 19, 1988, and Released April 27, 1988.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Summary of Order

1. In this *Order*, the Commission is terminating CC Docket No. 87-215. In the Notice of Proposed Rulemaking in this docket, the Commission proposed to eliminate the exemption from interstate access charges currently permitted enhanced service providers. The Commission sought comment from interested parties on this issue, and asked for detailed data on the state of the enhanced services industry. The record in this proceeding indicates that, as a result of a number of complex and interrelated factors, the enhanced services industry is entering a unique period of rapid and substantial change. The Open Network Architecture plans required in the *Computer III* proceeding were filed on February 1, 1988, but have not yet been implemented. In addition, the District Court overseeing the Modification of Final Judgment (MFJ) in the Bell System divestiture case has recently modified the restriction in the decree that had previously prevented the Bell Operating Companies (BOCs) from offering any information services. These regulatory and judicial events make this an unusually volatile period for the enhanced services industry. The Commission has concluded that it would not be appropriate at this time to eliminate the exemption from interstate access charges currently permitted enhanced service providers. Accordingly, the Commission has decided to terminate this rulemaking proceeding.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-9990 Filed 5-5-88; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental statement; Ridge Timber Sale; Okanogan National Forest, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of environmental impact statement cancellation.

SUMMARY: The Department of Agriculture, Forest Service, has withdrawn its notice of intent to prepare an environmental impact statement for the Ridge Timber Sale on the Twisp Ranger District of the Okanogan National Forest. As a result of on going planning and environmental analyses for the Forest Land and Resource Management Plan, it was determined that the issues and concerns raised for the Ridge Timber Sale would be more appropriately considered and addressed in the environmental impact statement for the Okanogan National Forest Land and Resource Management Plan.

The Notice of Intent, published in the **Federal Register** of December 16, 1986, is hereby rescinded (51 FR 45029).

FOR FURTHER INFORMATION CONTACT: Jim Hulbert, District Ranger, Twisp Ranger District, Okanogan National Forest, P. O. Box 188, Twisp, Washington 98856 (telephone (509) 997–2131).

William D. McLaughlin,

Forest Supervisor.

Date: April 22, 1988.

[FR Doc. 88–10070 Filed 5–5–88; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

North Delaney Butte Lake, Critical Area Treatment RC&D Measure, CO

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the North Delaney Butte Lake Critical Area Treatment RC&D Measure, Jackson County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964–0295.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent water erosion above the lake. This gully erosion is damaging the water quality of the lake. The planned works of improvement include constructing approximately 450 feet of pipeline with appurtenances, a grade stabilization structure, 1,750 feet of diversion structure, and 15 acres of critical area planting.

The notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Sheldon G. Boone,

State Conservationist.

Date: April 29, 1980.

[FR Doc. 88–10125 Filed 5–5–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Information Collections Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration
Title: Swedish Consignee's Letter of Assurance
Form Number: Agency—N/A; OMB—0625–0142
Type of Request: Reinstatement
Burden: 259 respondents; 139 reporting/recordkeeping hours
Needs and Uses: The information requested by this reporting requirement is submitted voluntarily by Swedish importers of controlled U.S. origin goods and technical data. This documentation affirms that the importer will comply with our export policies. The purpose of this requirement is to provide the U.S. with an extra measure of security against diversion of these goods or technology to unauthorized destinations.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion; recordkeeping
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395–7340

Agency: Bureau of Export Administration
Title: Magnetically-Enhanced Sputtering Equipment
Form Number: Agency—N/A; OMB—N/A
Type of Request: New Collection
Burden: 12 respondents; 60 reporting hours

Needs and Uses: A foreign availability request has been received. In accordance with the Export Administration Act, the Department must evaluate the economic impact should controls be maintained on magnetically-enhanced sputtering equipment.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: One-time only
Respondent's Obligation: Voluntary
OMB Desk Officer: John Griffen, 395–7340

Agency: Bureau of Export Administration
Title: Digital Computer Systems Parameters
Form Numbers: Agency—ITA–6031P; OMB—0625–0038
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 5,725 respondents; 13,768 reporting/recordkeeping hours
Needs and Uses: The information provided on computers and software is used by U.S. government export licensing personnel to determine if a license should be issued to export such items to Communist bloc countries and the Peoples Republic of China.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion; recordkeeping
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395–7340

Agency: Bureau of Export Administration
Title: Statement by Foreign Consignee in Support of a Special License Application
Form Numbers: Agency—ITA–6052P; OMB—0625–0135
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 645 respondents; 343 reporting/recordkeeping hours
Needs and Uses: Special licenses (project and service supply) allow multiple shipments, thus eliminating the need for an individual license for each export. Information in support of a special license is submitted by foreign consignees of U.S. exporters, which is used to determine the reliability of the foreign consignee. By using this procedure, the foreign consignee need not submit supporting documentation every time they place an order.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion; recordkeeping
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395–7340

Agency: Bureau of Export Administration
Title: Written Assurance for Exports of Technical Data Under General License GTDR (Technical Data Under Restriction)
Form Numbers: Agency—EAR 379.4(e)(f); OMB—0625–0140
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 550 respondents; 284 reporting/recordkeeping hours
Needs and Uses: Foreign importers are required to provide letters of assurance to U.S. exporters stating that certain technical data will not be used for certain purposes or shipped to proscribed destinations. The purpose of the written assurance is to ensure that the importer will comply with our export laws. This document can be used as evidence against firms who have not compiled with the Export Administration Act.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion; recordkeeping
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 2, 1988.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 88–10065 Filed 5–5–88; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket 22–88]

Foreign-Trade Zone 133—Quad-City, Iowa; Application for FTZ Subzones; Maytag Corporation Plants in Newton, Iowa, Etc.

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Quad-City Foreign-Trade Zone, Inc. (QCFTZ), grantee of FTZ 133, requesting special-purpose subzone status for three plants of the Maytag Corporation, which produce major home appliances. One of the plants is located in Iowa, while the other two are in Illinois. QCFTZ is authorized under the laws of Iowa and Illinois to apply for zone projects in both states. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 25, 1988.

The Three Maytag plants are: Admiral Division of Maytag (50 acres), Monmouth Boulevard and Linwood Road, Galesburg, Illinois (refrigerators and dehumidifiers); Norge, a division of Admiral (34 acres), Lyerla Drive, Herrin, Illinois (clothes washing machines and dryers); Maytag (plant #2, Newton, 37 acres), N. 19th Avenue East and E. 8th Street North, Newton, Iowa (clothes washing machines and dryers, dishwashers and food waste disposers). The plants employ a total of some 6,400 persons.

The plants source certain parts from abroad, including compressors, ball bearings, capacitors, controllers, and thermostats, which account for up to 20 percent of total material costs.

Zone procedures would exempt Maytag from Customs duties on the foreign components that are reexported in finished products. On products shipped into the United States, the company would be able to take advantage of the same duty rate available to importers of finished refrigerators, clothes washers and dryers and dishwashers. (The company does not plan to use zone procedures for the production of dehumidifiers and food waste disposers.) The duty rates on components used at the three plants range from 3.4 to 11.0 percent, whereas the rates on the finished products range from 2.8 to 3.6 percent. The application indicates that the savings will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC. 20230; Larry Shirk, Assistant District Director, U.S. Customs Service, North Central Region, 610 South Canal Street, Chicago, Illinois 60607; Theodore Galantowicz, District Director, U.S. Customs Service, North Central

Region, 7911 Forsyth Boulevard, Suite 625, Clayton, Missouri 63105; Colonel Neil A. Smart, District Engineer, U.S. Army Engineer District Rock Island, P.O. Box 2004, Clark Tower Building, Rock Island, Illinois 61204–2004; and Colonel Daniel M. Wilson, District Engineer, U.S. Army Engineer District St. Louis, 210 Tucker Boulevard N., St. Louis, Missouri 63101–1986.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1988.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 525 East 10th Avenue, P.O. Box 767, Milan, Illinois 61264

Office of the District Director, U.S. Customs Service, 7911 Forsyth Boulevard, Suite 625, Clayton, Missouri 63105

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: May 2, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–10118 Filed 5–5–88; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[C–559–701]

Final Negative Countervailing Duty Determination: Carbon Steel Wire Rod From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of carbon steel wire rod (wire rod), as described in the "Scope of Investigation" section of this notice.

EFFECTIVE DATE: May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–3217 or 377–0161.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Singapore of wire rod.

Case History

Since the last **Federal Register** publication pertaining to this investigation [*Preliminary Negative Countervailing Duty Determination: Carbon Steel Wire Rod from Singapore* (53 FR 5207, February 22, 1988)], the following events have occurred. We conducted verification in Singapore of the questionnaire responses of the Government of Singapore, National Iron and Steel Mills (NISM), Kloeckner Pte. Ltd. (Kloeckner), and Mitsui & Co. Ltd. of Singapore (Mitsui) from March 7–11, 1988. A supplemental response was submitted by the respondents on March 21, 1988. Briefs were filed on April 22 and 25, 1988.

Scope of Investigation

For the purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, not over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classified under items 607.1400, 607.1710, 607.1720, 607.1730, 607.2200, and 607.2300 of the *Tariff Schedules of the United States Annotated* and under items 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7213.41.30, 7213.41.60, 7213.49.00, and 7213.50.00 of the Harmonized System.

Analysis of Programs

Throughout this notice, we refer to certain principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1986. Based upon our analysis of the petition, the responses to our questionnaire, verification, and written comments from respondents and petitioners, we determine the following:

I. Programs Determined not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Singapore of wire rod under the following programs:

A. Development Bank of Singapore Short-Term Trade Financing

Although not alleged by petitioners and not included in our notice of initiation or preliminary determination, we found during verification that the Development Bank of Singapore (DBS) offers short-term trade financing. This facility is a line of credit available for financing import and export transactions for periods of up to 90 days. We verified that NISM, Kloeckner, and Mitsui had short-term trade financing from the DBS outstanding during the review period. Government ownership or control of a bank does not necessarily lead to the conclusion that the bank is operating in other than a commercial fashion. Unless we are investigating a loan program established by the government or mandated by a government directive, it has generally been our practice in this type of situation to analyze initially whether the bank is operating as a commercial entity.

For example, in *Final Affirmative Countervailing Duty Determination: Industrial Nitrocellulose from France* (48 FR 11971, March 22, 1983), we examined two types of lending activities by Credit National, a bank partially owned by the French government which also accounted for a majority of the bank's directors. Loans which were administered jointly by Credit National and the government were subjected to the "specificity" and "benchmark" tests usually employed by the Department, and were found to be countervailable. For the other, "ordinary" loans made by Credit National, we found that the terms were generally comparable to those offered by commercial banks. Thus, we concluded that we did not have reason to investigate whether individual loans made outside of the government-directed programs conferred a subsidy.

In *Final Negative Countervailing Duty Determination: Carbon Steel Wire Rod from Singapore* (51 FR 3357, January 27, 1986), we found that "although the DBS was established in 1968 as a government development bank, since 1973 it has functioned as an ordinary commercial bank." Moreover, it was determined that the terms of the long-term financing under investigation were similar to

those offered by other commercial banks in Singapore.

Based on information gathered at verification in this investigation, we found that the Government of Singapore is the majority shareholder in DBS and controls three of the nine members of the bank's board of directors. However, we also found that the bank continues to operate as a profitable institution and that the terms of the short-term trade financing were comparable to terms offered by other commerical banks in Singapore. Therefore, we have no reason to believe that the short-term trade financing offered by DBS constitutes a bounty or grant to respondents or other borrowers.

B. Section 16 of the Income Tax Act (ITA)

The Economic Development Board (EDB) administers section 16 of the ITA, which provides for an annual allowance of 3 percent plus an additional initial allowance of 25 percent for the depreciation of industrial buildings. We verified that these allowances are the standard depreciation allowances permitted in Singapore and apply to all types of industrial buildings, including buildings for research and development (R&D). There is no evidence on the record that these allowances are excessive for the steel industry. Therefore, we determine that initial and annual allowances for industrial buildings provided for under section 16 of the ITA are not countervailable.

c. Section 19A of the ITA

In 1985, the Government of Singapore instituted a system of accelerated depreciation. Section 19A of the ITA, administered by the EDB, allows a company to depreciate all capital expenditures over a three year period, with the exception of automobiles and robotics. Currently, an enterprise must choose between using section 19 of the ITA (the normal depreciation schedule) or section 19A when depreciating an asset for tax or financial purposes.

We verified that this provision applies to all capital expenditures, except as noted above, and that it is available to all enterprises in Singapore. Therefore, we determine that the accelerated depreciation provided for under section 19A of the ITA is not countervailable.

II. Programs Determined Not To Be Used

Based on verified information, we determine that manufacturers, producers, or exporters in Singapore of wire rod did not apply for, claim, or receive benefits during the review period for exports of wire rod to the United States under the programs listed below. These programs were described in the preliminary determination in this investigation unless otherwise noted. (Because the Economic Expansion Incentives Act (EEIA) of 1967 was amended in 1985, the numbers corresponding to certain section titles have been changed. Therefore, the section numbers of the EEIA of 1967, which were used in the preliminary determination, are listed below in parentheses after the 1985 part numbers, where appropriate.)

A. Export Tax Incentives

1. Part VI (IV) of the EEIA as amended, Production for Export.
2. Part VII (IVA) of the EEIA as amended, International Trade Incentives.
3. Part XI (VIB) of the EEIA as amended, Warehousing and Servicing Incentives.
4. Section 14 (B) and 14(C) of the ITA, Double Deduction of Export Promotion Expenses.

B. Other Tax Incentives

1. Part II (same number) of the EEIA as amended, Pioneer Industries.
2. Part IV (III) of the EEIA as amended, Expansion of Established Enterprises.
3. Part VIII (V) of the EEIA as amended, Foreign Loans for Productive Equipment.

C. Research and Development Incentives

1. Part III (IIA) of the EEIA as amended, Pioneer Service Companies.
2. Part IX (VI) of the EEIA as amended, Royalties, Fees, and Development Contributions.
3. Part X (VIA) of the EEIA as amended. Under Part X of the EEIA, companies are granted a tax exemption on profits equal to a percentage of the fixed investments in plant and equipment incurred by a company on a project. Part VIA of the original EEIA (Part X as amended) was found to be not countervailable in *Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Singapore* (50 FR 9840, March 12, 1985) (*Textiles*).

The petition in this investigation included information concerning certain R&D allowances provided by the Government of Singapore as administered by the EDB. While the Department did not initiate an investigation specifically on Part X of the EEIA, it did initiate on R&D allowances in general. Respondents reported that R&D investment allowances are provided for under Part X of the EEIA as amended and stated that the companies under investigation did not use this allowance for R&D purposes. Although this program was found to be not countervailable in *Textiles*, we continued to investigate Part X due to possible amendments concerning R&D investment allowances. Therefore, in the preliminary determination in this investigation, we determined that Part X was not used.

Although we found no new information at verification and petitioners have not presented any new information which would cause as to reconsider our determination in *Textiles*, we are not determining the countervailability of Part X of the EEIA, as amended, for purposes of wire rod because the respondents did not use the R&D part of this program during the period investigation.

4. Sections 14(E) of the ITA, Double Deduction for Research and Development.
5. Section 19(B) of the ITA, Writing-Down Allowance for Approved Know-How and Patent Rights.
6. Singapore Science Council Research and Development Assistance Scheme.

D. Government Financial Assistance

1. Monetary Authority of Singapore Rediscount Facility.
2. Singapore Economic Development Board Programs.

a. Capital Assistance Scheme
b. Product Development Assistance Scheme
c. Initiatives in New Technology

III. Program Determined Not to Exist

Based on verified information, we determine that the *Development Bank of Singapore Working Capital Loan Fund* does not exist. This program was described in the preliminary determination in this investigation.

Interested Party Comments

Comment 1: Petitioners contend that NISM received countervailable benefits for wire rod in 1986 and 1987 in the form of investment allowances under Part X of the EEIA. Petitioners argue that any benefits received under Part X are countervailable, whether they were granted for R&D investments or other types of projects. Petitioners contend that one factor the Department considers in assessing specificity is the extent and manner of discretion exercised by the government in making the program available. Because the Government of Singapore exercises complete discretion as to the projects approved and the percentage of an approved investment eligible for the

allowance under Part X, the specificity test is met.

Petitioners further argue that the Department's verification reports contain no information demonstrating that this program, as administered, is provided to other than a specific industry, enterprise, or group thereof. Finally, citing *Cabot Corp. v. United States*, 664 F. Supp. 525 (1987) and *Beker Industries Corp. v. United States*, 7 CIT 313 (1984), petitioners argue that the Department's determination in *Textiles* is not relevant because this investigation must be decided on the facts of record in this proceeding.

Respondents contend that Part X of the EEIA as amended was found not to be limited to a specific enterprise or industry, or group of enterprises or industries in *Textiles* and that an investigation of Part X was initiated in this proceeding only with respect to R&D. They argue that petitioners have presented no new information that would suggest that the Department should review or reverse the *Textiles* determination and that nothing on the face of the law or its operation suggests that the program should be considered a countervailable benefit.

DOC Position: See section II.C.3. of this notice.

Comment 2: Petitioners contend that NISM claimed and received benefits under section 19B of the ITA for licensing and know-how fees paid for a manufacturing process which petitioners claim is used in the production of both wire rod and reinforcing bars. Petitioners argue that, although benefits under this program may be generally available to companies which meet the program's eligibility requirements, since NISM is not eligible but did receive benefits, the specificity requirement is satisfied. Petitioners further contend that, despite the Government of Singapore's statement that it will disallow the benefits NISM improperly received under the program after completion of an audit, NISM did claim the allowance during the review period.

Finally, petitioners state that the Department has addressed only the R&D provision of this tax incentive and, since approval of application for benefits is at the discretion of the Ministry of Trade and Industry, all benefits received by NISM under this provision should be countervailed.

Respondents contend that there is nothing on the record to suggest that the allowance provided under section 19B should be considered a countervailable benefit. These allowances are available to any company which makes a payment for approved know-how or patent rights and, therefore, are not countervailable. Respondents further contend that, if the allowance is not properly claimed, an adjustment to the company's tax liability will be made after the government's tax audit.

DOC Position: At verification, we found that the allowance claimed by NISM under this program was related to the production of reinforced bars not to the production of wire rod. Therefore, for purposes of this determination, we have found this program not to be used.

Comment 3: Petitioners contend that the DBS generally lends at the prime rate plus a spread for short-term trade financing. Petitioners argue that: (a) NISM received short-term trade financing from DBS during the review period at an interest rate considerably lower than the prime rate plus a spread, and (b) the interest rate NISM received is not generally available to non-DBS owned entities and is inconsistent with commercial considerations. Petitioners also contend that the interest rate differential is the result of a decision by, or at the direction of, the government to benefit specific companies in which the Government of Singapore has direct or indirect equity.

Respondents contend that the DBS operates as a domestic commercial bank extending credit on commercial terms to all recipients. Respondents argue that the rate charged by the DBS is pegged to the inter-bank rate, which is comparable to the rates offered by other commercial lenders for short-term trade financing. Further, respondents argue that similar rates were provided to Mitsui and Kloeckner, companies unrelated to the DBS.

DOC Position: We verified that all three respondents, including those in which the DBS does not hold any equity, received trade financing from the DBS. *See* section I.A. of this notice.

Verification

We verified the information used in making our final determination in accordance with section 776(a) of the Act. We used standard verification procedures including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents of the respondents. Our verification results are outlined in detail in the public versions of the verification reports which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

This determination is published pursuant to section 703(f) of the Act [19 U.S.C. 1671b(f)].

May 2, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-10117 Filed 5-5-88; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certification of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an Amended Export Trade Certificate of Review, application # 84-2A012.

SUMMARY: The Department of Commerce has issued an amendment to the export trade certificate of review of Northwest Fruit Exporters granted on June 11, 1984 (49 FR 24581, June 14, 1984). The amendment was deemed submitted on February 1, 1988, and a summary of the application was published in the **Federal Register** on February 18, 1988 (53 FR 4867). This notice summarizes the revisions made to the original certificate.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title II of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b) which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 84-00012, issued on June 11, 1984, is amended by revising the list of "Members" under the caption "Definitions" as follows:

1. Adding the name of the following company:

—Muriel Oliver-Winterscheid, Mercer Island, WA

2. Deleting the names of the following companies:

—Andrus & Roberts Produce Company, Sunnyside, WA
—Highland Fruit Growers, Yakima, WA
—Obert Cold Storage, Zillah, WA
—Phillippi/Pro Pak, Wenatchee, WA
—Roche Fruit Company, Yakima, WA
—Yakima Fruit & Cold Storage, Yakima, WA.

3. Changing the names of the following companies:

Company (Current Listing)

—Pacific Fruit Company
—The Dalles Cherry Growers
—Wenatchee Wenoka Growers

New Listing

—Amerifresh
—Oregon Cherry Growers
—Chief Wenatchee Growers

4. Changing the locations of the following companies:

Company

—Mojonnier & Sons
—Stadelman Fruit, Inc.

Old Location

—Walla Walla, WA
—The Dalles, OR *and* Yakima, WA

New Location

—Sunnyside, WA
—Yakima, WA *only*

5. Making the following typographical changes:

Company (Current Listing)

—Inland Fruit & Produce Company
—C.M. Holtzinger Company

New Listing

—Inland Fruit & Produce Company, Inc.
—C.M. Holtzinger & Fruit Company, Inc.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Date: May 2, 1988.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88–10115 Filed 5–5–88; 8:45 am]

BILLING CODE 3510-DR-M

National Bureau of Standards

Announcing Symposium on Testing for Conformance to Information Technology (IT) Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice.

SUMMARY: The Institute for Computer Sciences and Technology (ICST) at the National Bureau of Standards (NBS) is sponsoring an open symposium to discuss conformance testing requirements of national and international organizations, and proposed policies and procedures developed for the Federal government for testing for conformance to Federal Information Processing Standards (FIPS). The symposium will focus on tests and certification procedures needed for correct implementation of standards and for interoperability of computer products, and will be of interest to Federal agency managers, industry vendors and users, standards developers, testing organizations and the international community.

DATE: The symposium will be held on May 24–25, 1988 at NBS, Gaithersburg, MD.

ADDRESS: To register or to receive a brochure on the symposium, contact Tina Faecke (301) 975–3240 or Arlene Carlton (301) 975–2821, National Bureau fo Standards, Building 225, Room B154, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Arnold Johnson, (301) 975–3247 or Shirley Radack, (301) 975–2833.

SUPPLEMENTARY INFORMATION: Attendance at the symposium is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis. A registration fee (advance $110; on-site $125) to help defray the costs of conducting the symposium will be charged. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the symposium.

Ernest Ambler,

Director.

Date: May 1, 1988.

[FR Doc. 88–10060 Filed 5–5–88; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Marine World Foundation (P172C)

On March 7, 1988, notice was published in the **Federal Register** (53 FR 7223) that an application had been filed by Marine World Foundation, Marine World Parkway, Vallejo, California 94589 for a permit to import four (4) false killer whales for the purpose of public display.

Notice is hereby given that on April 29, 1988 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Rolland A. Schmitten,

Acting Assistant Administrator for Fisheries.

Date: April 29, 1988.

[FR Doc. 88–10084 Filed 5–5–88; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; E.I. duPont DeNemours & Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to E.I. duPont deNemours and Company, having a place of business in Boston, MA 02118, an exclusive right in the United States and foreign countries to practice the invention embodied in U.S. Patent Application S. N. 7–100,909, "Probes for GTP–Binding Proteins." Prior to any license grant by NTIS, the patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Robert P. Auber, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88–10124 Filed 5–5–88; 8:45 am]

BILLING CODE 3510-04-M

Patent and Trademark Office

Public Advisory Commitee for Trademark Affairs

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of renewal.

SUMMARY: in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and after consultation with GSA it has been determined that the renewal of the charter of the Public Advisory Committee for Trademark Affairs is in the public interest in connection with the performance of duties imposed on the Department by law.

SUPPLEMENTARY INFORMATION: The Committee was first established in September 1970, and is now being renewed. The Committee's purpose is to advise the Patent and Trademark Office concerning steps which can be taken to increase the efficiency and effectiveness of administration of the Trademark Act and to provide a continuing flow of knowledge from the private sector to the government in the field of trademarks.

As it was initially established, the Committee will continue to comprise the members of the Advisory committee for Trademark Affairs of the United States Trademark Association. The membership is balanced and is selected by the President of said association, subjet to the approval of the Assistant Secretary and Commissioner of Patents and Trademarks. The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act.

FOR FUTHER INFORMATION CONTACT: Carlisle E. Walters, Committee Control Officer, Office of the Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, DC 20231, telephone: (703) 557–7464, or Suzette Kern, Committee Management Analyst, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–4217.

Date: April 29, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88–10090 Filed 5–5–88; 8:45 am]

BILLING CODE 3510–16–M

Extension of Previously-Granted Interim Orders Under the Semiconductor Chip Protection Act of 1984

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Extension of interim orders.

SUMMARY: On November 18, 1987, a Notice of Initiation of Proceedings was published at 52 FR 44200, whereby the Commissioner requested comments on the extension of existing interim orders under the Semiconductor Chip Protection Act of 1984. A hearing was held on March 16, 1988. To promote the development of international comity in the protection of mask works, the Commissioner extended the existing interim orders until May 31, 1988.

By Amendment 2 to Department Organization Order 10–14, the Secretary of Commerce delegated to the Assistant Secretary and Commissioner of Patents and Trademarks (hereinafter the Commissioner) the authority, under section 914 of the Semiconductor Chip Protection Act of 1984 (SCPA), 17 U.S.C. 914, to make findings and issue orders for interim protection of semiconductor mask works produced in foreign countries. Pursuant to the Semiconductor Chip Protection Act Extension of 1987, Pub. L. 100–159, the Commissioner's authority to grant interim protection orders was extended until July 1, 1991.

Interim orders have been issued, and extended, in favor of mask works produced in eighteen (18) countries—Japan, Australia, Sweden, Switzerland, Finland, Canada, and the twelve Member States of the European Communities (EC). This proceeding was initiated to review the further progress that has been made toward establishing legal protection of semiconductor mask works in the eighteen (18) subject countries, and to permit the Commissioner to determine, on a case-by-case basis, whether to extend the orders or to recommend that permanent protection be granted through the issuance of a Presidential proclamation pursuant to section 902(a)(2) of the SCPA, 17 U.S.C. 902(a)(2).

Comments were received from or on behalf of all countries that have been granted interim protection under the SCPA. At the hearing on March 16, 1988, testimony was received from the Government of Switzerland, the Commission of the European Communities, the Electronic Industry Association of Japan, and the U.S. Semiconductor Industry Association.

Based on the record, the Commissioner has decided to extend all eighteen (18) interim protection orders until May 31, 1989.

DATES: The effective date of this order shall be June 1, 1988. The termination date of this order shall be May 31, 1989.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557–3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The SCPA established a new form of intellectual property protection for mask works that are fixed in semiconductor chips. Mask works are defined as a "series of related images, however fixed or encoded," that represent the three-dimensional pattern in the layers of the semiconductor chip. Thus, the subject matter of protection under the SCPA are the layout designs of semiconductor chips, known in some countries as "integrated circuit layout designs" or as "semiconductor topographies." The SCPA provides a ten-year term of protection for original mask works measured from their date of registration or first commercial exploitation anywhere in the world. To maintain protection, mask works must be registered in the United States Copyright Office within two years of first commercial exploitation.

Protection for foreign mask works may be extended under both section 902 and section 914 of the SCPA. Protection of foreign mask works under section 902 continues until revoked. Section 902 sets out three different ways that foreign mask works may become eligible for protection in the United States. First, on the date the work is registered or is first commercially exploited anywhere in the world, the mask work is protectible if its owner is a national, domiciliary or sovereign authority of a foreign nation that is party to a treaty that provides protection of mask works and to which the United States is also a party, or a stateless person wherever domiciled. Second, foreign mask works may be protected when they are first commercially exploited in the United States. The third way, set forth in section 902(a)(2), is when the foreign mask work comes within the scope of a Presidential proclamation. The President may issue a proclamation upon finding that a foreign nation extends protection to mask works of U.S. nationals or domiciliaries (1) on substantially the same basis as it protects mask works of its own nationals and domiciliaries, or (2) on substantially the same basis as the SCPA.

Section 914 was included in the SCPA as a transitional provision, intended by Congress to encourage other countries to pass laws extending protection to this new form of intellectual property. Once laws were in place, it was reasoned, permanent protection for foreign mask

works could be conferred under section 902 or through a multilateral treaty that extended coverage to mask works. Section 914 gives the Secretary of Commerce authority to issue orders extending interim protection to foreign mask work owners upon the satisfaction of certain conditions. First, the Secretary must find that the foreign nation is making good-faith efforts and reasonable progress toward entering into a treaty with the United States, or that the foreign government is in the process of enacting legislation that will protect U.S. mask works on the same basis as domestic mask works, or a level similar to that provided under the SCPA. Second, the Secretary must determine that nationals, domiciliaries and sovereign authorities of the foreign nation are not engaged in the misappropriation, unauthorized distribution, or commerical exploitation of mask works. Finally, the Secretary must determine that issuance of an interim order would promote the purposes of the SCPA and international comity with respect to the protection of mask works.

Under the original terms of the SCPA, the Secretary's authority under section 914 expired on November 7, 1987. Congress included the three-year transition perid to encourage other countries time to enact legislation providing mask work protection. It was also thought that progress would be made under the auspices of the World Intellectual Property Organization (WIPO) toward the development of a multilateral treaty extending protection to integrated circuit layout designs. While commendable progress has taken place on both fronts, the Congress recently extended the Secretary's authority under section 914 until July 1, 1991. *See* Pub. L. 100–159, November 8, 1987. The purpose of the extension was to enable the United States to "provide a continued incentive for foreign nations to move expeditiously to enact chip protection legislation," and to "lay a sound basis for the development of a new multilateral treaty under the auspices of the WIPO, or another appropriate forum." H.R. Rep. No. 100–388, 100th Cong., 1st Sess. 3–4 (1987).

The Secretary of Commerce has delegated to the Commissioner of Patents and Trademarks the authority under section 914 to make pertinent findings and to issue orders for the interim protection of foreign mask works. The Patent and Trademark Office established procedures for submission of requests for interim orders. The Commissioner has issued orders granting interim protection under section 914 for mask works produced in Australia, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. With the exception of orders in favor of mask works produced in Switzerland and Finland, all of the interim orders have been extended. *See Interim Protection for Mask Works of Foreign Nationals,* 51 FR 30690 (August 28, 1986). Orders for all eighteen (18) countries are in effect until May 31, 1988.

On November 18, 1987, a Notice of Initiation of Proceedings was published at 42 FR 44200, whereby the Commissioner requested comments and scheduled a hearing concerning the status of the interim protection orders previously issued under section 914. The Commissioner announced that he would detemine, on a case-by-case basis, whether to extend the interim protection available under section 914 or to recomend that the President confer permanent protection through a proclamation under section 902(a)(2) of the SCPA. On February 25, 1988, a Notice of Proposed Rulemaking was published at 53 FR 5588–90, setting forth proposed regulations that specify the content and procedures for submission of requests to the Secretary of Commerce for the issuance of such proclamations.

Submissions of the Parties

Comments were submitted by the Governments of Japan, Switzerland, Sweden, Finland, Canada, and Australia; the Commission of the European Communities submitted comments on behalf of the EC Member States. Comments were also received from the Electronic Industries Association of Japan (EIAJ) and the U.S. Semiconductor Industry Association (SIA). At the hearing on March 16, 1988, testimony was received from the Government of Switzerland, the Commission of the European Communities, the EIAJ and the SIA.

European Communities

The views of the Commission of the European Communities were delivered at the hearing by Mme. Margarita Langer, Director General for Internal Markets and Industrial Affairs. Mme. Langer began her testimony by observing that considerable progress has taken place in the EC relative to the legal protection of semiconductor chip layout designs. On December 16, 1986, the Council of the EC issued its *Directive on the Legal Protection of Topographies of Semiconductor Products* (Directive), 87/54/EEC, OJ No. L24, 27.1.87, p. 36. The Directive sets forth principles to be applied in all EC Member States, obligating them to enact laws and administrative provisions necessary to provide protection for topographies according to the principles.

Mme. Langer stated that the standards of protection required under the Directive are substantially similar to those in the SCPA. Member States must grant exclusive rights to authorize or prohibit the reproduction and commercial exploitation of a protected topography, however, it is fixed or encoded. Reverse engineering is permitted, and no liability attaches to an innocent infringer prior to notice that the work is protected. Protection is granted for ten years from the date of first commercial exploitation anywhere in the world, or from the date of the filing of an application for registration in those Member States that require registration. Registration and deposit of identifying material are optional; if the law of a Member State requires a deposit, trade secret material must remain confidential. The Member States have discretion under the Directive to protect foreign mask works through membership in a multilateral treaty or through bilateral measures.

The Directive required that all Member States enact legislation protecting semiconductor topographies by November 7, 1987. Mme. Langer stated that, while legislation was not completed in all twelve Member States by that date, laws are in place in five Member States—Denmark, the Federal Republic of Germany, France, the Netherlands, and the United Kingdom. Protection for foreign mask works under all of these laws is based on the existence of reciprocal protection in the particular foreign country.

Mme. Langer reported that progress towards implementation of the Directive in the other seven states has been substantial. In Belgium, a draft law has been prepared and is awaiting presentation to the Parliament, following endorsement by a newly-formed government. A presidential decision to implement the Directive has been prepared in Greece, and implementing legislation is pending before the Greek Parliament. Adoption of a draft law in Spain is expected by May 1988. In Ireland, issuance of a national instrument is expected shortly. Draft laws are before the Parliaments of Italy and Luxembourg. A decree-law has been prepared in Portugal, and at the time of the hearing was awaiting action by the Portuguese Council of Ministers.

To assure that U.S. mask works are protected in the EC while national laws protecting semiconductor topographies are finalized, the Council of the European Communities adopted a decision on October 26, 1987, obligating the Member States to extend protection under the Directive to U.S. nationals and domiciliaries until November 7, 1990. *Council Decision of 26 October 1987*, 87/532/EEC, OJ No. L313, 4.1187, p. 22. This protection is based on continued U.S. protection of mask works produced in the EC. Mme. Langer testified that no mask misappropriation of mask works is taking place in the Member States. Since legislation is not in place throughout the EC, Mme. Langer requested an extension of the interim orders granting protection under section 914 of the SCPA to mask works produced in the twelve Member States. She stated that the Commission will request a Presidential proclamation conferring permanent protection under section 902(a)(2) as soon as all laws are final.

Government of Switzerland/Swiss Federation of Commerce and Industry (SFCI)

The views of the Government of Switzerland, supported by the SFCI, were conveyed at the hearing by Dr. Roland Grossenbacher, Assistant Director-General of the Swiss Federal Intellectual Property Office. Dr. Grossenbacher indicated that a degree of protection for mask works in Switzerland is currently available through a recently-enacted unfair competition statute. On the international level, he noted that the Government of Switzerland has strongly supported the movement within WIPO to conclude a treaty on the protection of integrated circuits.

Dr. Grossenbacher stated that permanent protection of mask works will be established in the context of a total revision of the Swiss Copyright Act. Dr. Grossenbacher noted that a Federal commission concluded the preparation of a draft law in December, 1987, and that the draft includes a chapter concerning the protection of mask works. He stated that the chapter is framed along the lines of the SCPA and the EC Directive. Dr. Grossenbacher indicated that final legislation should be in place by late 1989 or early 1990.

Protection of mask works under the proposed chapter is of a *sui generis* nature, according to Dr. Grossenbacher, even though it will likely be included in the Copyright Act. The subject matter of protection is to be topographies and parts of topographies manufactured by any process, "provided that their structure is not evident." Dr. Grossenbacher stated that the term "parts of topographies" indicates that protection will extend to discrete semiconductor devices that meet the requisite standard of originality.

Like the SCPA, the Swiss draft contains exceptions to the rights of mask work owners for reverse engineering and innocent infringement. The draft goes beyond the SCPA, however, by providing that innocent infringers must pay royalties to mask work owners for all uses of a protected work, not merely for those occurring after the innocent infringer had notice that the work was protected. The draft provides for a ten-year term of protection extending from the date of the application for registration or the date of first commercial exploitation of the mask work, whichever comes first. Registration must be made within two years after first commercial exploitation to maintain protection for the ten-year period. While permitting any party to inspect the register of mask works, the draft chapter safeguards against disclosure of trade secrets by precluding public access to the application files.

Protection for foreign mask works under the draft will be provided on the basis of reciprocity, according to Dr. Grossenbacher. Stating that no misappropriation of mask works has been or is taking place in Switzerland, Dr. Grossenbacher requested that the order granting interim protection under the SCPA to mask works produced in Switzerland be extended for two years, until May 31, 1990.

Government of Sweden/Federation of Swedish Industries (FSI)

In comments presented on behalf of the Government of Sweden and supported by the FSI, the Swedish Ministry of Justice stated that an *Act for the Protection of the Layout-Design of the Circuitry in Semiconductor Products* (Swedish Act) has been in force since April 1, 1987. The Government has issued a Special Decree extending protection under the Act to mask works of U.S. nationals and domiciliaries, and to mask works first commercialized in the United States, until May 8, 1988. The basis for the protection of U.S. works under the Special Decree is reciprocity.

The Ministry stated that protection afforded to U.S. mask works under the Swedish Act and the Special Decree is substantially the same as that provided under the SCPA. The Government and the FSI requested an extension of the section 914 interim order in favor of Swedish mask works for an "appropriate" period; the Government of Sweden will extend reciprocal protection to U.S. works under the Special Decree for an identical period. The Swedish Government is prepared to begin negotiations on the question of permanent protection for Swedish mask works under section 902 at any time, according to the Ministry.

Government of Finland

On behalf of the Government of Finland, the Finnish Ministry of Education presented a Progress Report on the preparation of integrated circuits legislation. The Ministry states that the State Copyright Committee published a report, *Information Technology and Copyright*, in April 1987. In the report, the Committee proposed a draft *sui generis* law for the protection of integrated circuit layout designs. Fifty-seven written comments on the proposal were received, and reaction to the Committee draft was supportive.

The Ministry reported that the proposed legislation is being modified to incorporate suggestions made in the written comments.

The points of clarification are: More precise definitions; provision for an exclusive right of importation; deletion of a provision concerning private use; provisions covering reverse engineering and innocent infringement; simplification of the duration provision; and more precise formulation of penalties for infringement.

The Ministry stated that a final version of the draft will be presented to the Finnish Parliament in mid-1988.

Government of Canada/Information Technology Association of Canada (ITAC)

The Canadian Government, supported by ITAC, presented comments requesting a one-year extension of the order protecting Canadian mask works under the SCPA. The Government noted that the Ministry of Consumer and Corporate Affairs issued a discussion paper in April 1987, containing recommendations for legislation protecting semiconductor layout designs. The Ministry has stated its intention to introduce such legislation in the first half of 1988. The Government also cited its strong support for multilateral efforts to conclude an international convention for the protection of integrated circuit designs.

Government of Australia

In written comments presented on behalf of the Government of Australia, the Australian Attorney-General's Department reported that the design and manufacture of integrated circuits is a small but growing sector of Australian industry. The Department referred to its

discussion paper published in March 1987, *Copyright Protection for Artistic Works Industrially Applied*, in which the need for legal protection for integrated circuits was recognized. Based on comments on the discussion paper, the Attorney-General has concluded tentatively that a *sui generis* regime of protection for integrated circuits should be developed in Australia.

While formal proposals for legislation have not yet been considered, the Department maintained that protection for U.S. mask works is currently available in Australia under the Copyright Act of 1968. Should a court find that the Act does not protect mask works, the Department stated that it will seek immediate introduction of appropriate legislation. The Department requests an appropriate extension of the order granting interim protection in the United States to mask works produced in Australia.

Electronic Industries Association of Japan (EIAJ)/Government of Japan

The views of the EIAJ, with the concurrence of the Government of Japan, were delivered at the hearing by Mr. Robert Schwartz, Esquire, Washington counsel to EIAJ. Mr. Schwartz testified that a Presidential proclamation should be granted to Japan as soon as the Patent and Trademark Office has issued final rules implementing section 902(a)(2) of the SCPA. He noted that the Japanese *Act Concerning the Circuit Layout of a Semiconductor Integrated Circuit* has been in force since January 1, 1986. The standards of protection under the Japanese Act are virtually identical to those under the SCPA, Mr. Schwartz claimed, and protection is available for mask works produced anywhere in the world, including the United States.

Mr. Schwartz recalled the 1986 proceeding in which the Patent and Trademark Office considered extensions of previously-issued interim protection orders. He referred to two arguments made at a July 9, 1986, hearing against the issuance of a Presidential proclamation in favor of Japanese mask works; he stated that the concerns on which those arguments were based have been superseded by events. The first argument was that Presidential proclamations in general should not be issued unless it is clear that they can also be revoked in light of changed circumstances. Mr. Schwartz stated that the recently-enacted SCPA Extension clarifies the President's authority to revoke proclamations issued under section 902(a)(2).

The other argument against the issuance of a Presidential proclamation was that as of July 1986 there had been only six months' experience under the Japanese Act. Mr. Schwartz maintained that this concern is now obsolete. Japan now has two full years' experience under the Act, nearly 1500 mask works have been registered in Japan as of March 1988, and roughly 18 percent of the applications processed in 1987 were from U.S. entities.

Mr. Schwartz urged that interim protection for mask works produced in Japan continue in force until final rules are issued and the appropriate actions toward the issuance of a Presidential proclamation can be taken.

U.S. Semiconductor Industry Association (SIA)

Mr. William Cray, Operations Law Group Manager, Digital Equipment Corporation, presented the views of SIA at the March 16 hearing.

SIA favors a blanket one-year extension of all 18 interim protection orders under section 914 of the SCPA, and opposes the issuance of a Presidential proclamation under section 902(A)(2) to any country at this time. Mr. Cray stated that section 914 is the best mechanism for review and evaluation of mask work legislation in the United States and foreign countries, that the extent of such review under the Presidential proclamation provisions is not yet clear, and that section 914 provides full, if not permanent, protection to foreign mask work owners. He stated that the issuance of a Presidential proclamation could jeopardize the negotiation of the multilateral integrated-circuits treaty in WIPO (1) by relegating international dialogue concerning mask work legislation solely to the treaty negotiations, and (2) because the grant of bilateral protection through a Presidential proclamation will compromise the negotiation of a multilateral treaty.

Mr. Cray noted SIA's longstanding concern that adequate protection for the discrete class of semiconductor products be provided under both the SCPA and mask work protection laws of other countries.

Concerning the degree of legal protection for mask works in each of the countries under consideration, Mr. Cray urged that the Commission of the European Communities continue its aggressive efforts to ensure that legislation compatible with the Directive soon be in place in all EC Member States. Concerning the draft law in Switzerland, Mr. Cray made several recommendations—that the definition of "topography" be made more precise, that the limitation on the right of reproduction for purposes of analysis be clarified, and that a provision for reverse engineering be included.

Mr. Cray congratulated the Government of Sweden on the enactment of its mask work protection law in April 1987, stating that SIA prefers to see the law in operation for a substantial period of time prior to the issuance of a Presidential proclamation. He also requested that the Swedish Government explain the purpose of a provision in the law permitting reproduction of single copies of mask works for private use. Mr. Cray expressed SIA's pleasure with the progress made in Finland toward the development of mask work legislation during the short period since interim U.S. protection was granted to Finnish works.

Praising the Canadian Government's plans to introduce legislation protecting integrated circuits by July 1988, Mr. Cray voiced SIA's concern that the current draft does not adequately protect the discrete class of semiconductor products. He suggested statutory language to ensure coverage of "discretes." Noting that draft legislation has yet to be prepared in Australia, Mr. Cray nonetheless cited the Australian Government's active participation in the WIPO negotiations for a multilateral treaty as evidence of its good faith intent to provide adequate legal protection for mask works. He restated an SIA concern that Australia's current copyright law does not adequately protect mask works, since it does not provide for reverse engineering, innocent infringement, or registration and notice of mask works. Mr. Cray urged the Australian government to proceed expeditiously with the preparation of specific legislation to protect mask works.

As to Japan, Mr. Cray noted the record of success under the Japanese law protecting integrated circuits since it became effective in January 1986, but voiced SIA's opposition to the issuance of a Presidential proclamation in favor of Japanese mask works at this time. Restating SIA's objections to Presidential proclamations in general, he cited two concerns specific to the Japanese law. First, SIA claimed that the quasi-governmental agency responsible for registering claims to mask work protection, the Industrial Property Cooperation Center (IPCC), has strong ties to the Japanese semiconductor industry. Second, the Japanese law requires the inclusion of trade secret material in applications for mask work

registration; because the IPCC is sponsored by Japanese companies, SIA feared that the confidentiality of proprietary information contained in the IPCC registry may not be maintained.

Supplemental Comments

To allow the parties to address issues raised in written comments or in testimony at the March 16 hearing, the record in this proceeding remained open until April 4, 1988. Supplemental comments were received from the Swedish Ministry of Justice on behalf of the Government of Sweden, from the EIAJ, and from SIA.

The Swedish Ministry of Justice addressed SIA's concern regarding a private-use exemption in the new Swedish law, explaining that the exemption was included for two reasons. First, since protection under the law extends to both two- and three-dimensional expressions of layout designs, a private-use exemption was included to permit private copying of two-dimensional representations of mask works, such as magazine photographs. The provision does not permit manufacture of semiconductor products for private use. Second, a private-use exemption is included in the Swedish Copyright Act, under which mask works were arguably protected before the new integrated-circuits law took effect. It seemed reasonable, according to the Ministry, to include in the new law a similar exemption for private copying of two-dimensional expressions of semiconductor layout designs.

The EIAJ addressed SIA's concerns regarding the quasi-governmental nature of IPCC and the confidentiality of trade-secret information in the registration process. Concerning the nature of IPCC, EIAJ stated that IPCC exists only by statute and regulation, and that it may be dissolved in the event of any violation of law. Moreover, as the Government of Japan confirmed at the most recent session of the WIPO committee of experts on integrated circuits, IPCC enjoys the legal status of a "national public authority." EIAJ also pointed out that no specific allegation of impropriety has ever been made with respect to the composition of IPCC.

Concerning the confidentiality of trade secret material, EIAJ stated that the registration officers at IPCC are former Japanese Patent Office employees appointed by the Minister of Trade and Industry, and that they have no links to the semiconductor industry. EIAJ cited Article 38 of the Japanese law, which makes it a crime for any IPCC officer or staff member to leak trade secret information. EIAJ also provided evidence that practice in Japan allows the obliteration of proprietary material from photographs or drawings of mask works deposited with registration applications.

SIA's additional comments reaffirmed its position concerning the importance of continued interim protection for foreign mask works under section 914 of the SCPA, its view that issuance of Presidential proclamations will compromise the multilateral treaty negotiations within WIPO, and its objection to the issuance of a Presidential proclamation in favor of Japanese mask works at this time. SIA expressed particular concern that an opportunity for review be provided as part of the Presidential proclamation process to ensure that U.S. mask works continue to receive reciprocal protection in particular foreign countries.

Findings of the Commissioner

Based on the record in this proceeding, consisting of the written submissions of the parties and the oral testimony received at the hearing on March 16, 1988, the Commissioner of Patents and Trademarks has decided to extend all of the interim orders previously issued under section 914 of the SCPA until May 31, 1989, one year from the date on which they are now scheduled to expire. No recommendations concerning the issuance of a Presidential proclamation under section 902(a)(2) of the SCPA will be made in this proceeding.

The Commissioner finds that substantial progress toward the enactment of legislation protecting mask works has been made in all eighteen (18) countries subject to interim protection orders. Indeed, legislation is now in place in seven countries—Denmark, the Federal Republic of Germany, France, Japan, the Netherlands, Sweden and the United Kingdom. Mask works of U.S. nationals and domiciliaries, and mask works first commercialized in the United States, are entitled to protection under all of these laws on the same basis as the laws protect domestic works, and on substantially the same basis as mask works are protected under the SCPA.

Moreover, the other eleven (11) countries are making good faith efforts toward the enactment of legislation that will protect U.S. mask works on the same basis as domestic works, or at a level similar to that provided under the SCPA. It is also noteworthy that these countries are actively supporting the work of WIPO in developing a new multilateral agreement that would establish a regime of international protection for mask works.

The record reveals no evidence that nationals, domiciliaries or sovereign authorities of any country subject to an interim protection order are engaged in the misappropriation, unauthorized distribution, or unauthorized commercial exploitation of mask works. The Commissioner also finds that a one-year extenstion of the previously-issued interim protection orders will promote the purposes of the SCPA and international comity with respect to the protection of mask works. While some of the parties requested extensions for a longer period, a one-year extension will permit further review of progress toward enactment of legislation in all countries now subject to interim orders, if such review is appropriate at the time.

Concerning the issuance of Presidential proclamations under section 902(a)(2) of the SCPA to those countries that provide permanent, reciprocal protection to U.S. mask works, it is commendable that legislation providing such protection is in place in seven (7) foreign countries and in varying degrees of preparation in eleven (11) others. However, no party in this proceeding requested the issuance of a Presidential proclamation at this time. The Commission of the European Communities noted that legislation protecting U.S. mask works is in effect in five Member States, but stated that it would request a Presidential proclamation conferring permanent protection under the SCPA only when laws have been enacted in all twelve (12) Members States. Similarly, the Government of Sweden stated its readiness to begin negotiations on the question of permanent U.S. protection for Swedish mask works, but did not formally request a Presidential proclamation. The EIAJ, while avowing that the first proclamation issued under section 902(a)(2) should be in favor of Japanese mask works, stated that no request would be made until the Patent and Trademark Office has promulgated final rules for the submission of such requests.

In a Notice of Proposed Rulemaking published at 53 FR 5588–90 on February 25, 1988, the Patent and Trademark Office proposed regulations under section 902(a)(2) that specify the content and procedures for submission of requests for Presidential proclamations to the Secretary of Commerce. The proposed rules provide that an evaluation concerning the issuance of a Presidential proclamation will be initiated by the Commissioner upon request of a foreign government, or upon the Commissioner's own motion. The proposed rules also provide that the

record in proceedings under section 914 will form the basis for determining whether a recommendation should be made that the President issue a proclamation.

The Commissioner does not agree with SIA that issuance of Presidential proclamations will jeopardize the ongoing work within WIPO to negotiate a multilateral agreement for the protection of semiconductor layout designs. The evidence adduced in this proceeding demonstrates that the semiconductor industry is increasingly international in scope. While the United States is a large market for semiconductor products, other markets are strong and growing. It is axiomatic that protection for foreign mask works in the United States under a Presidential proclamation is no substitute for protection in other countries under a widely-ratified multilateral agreement. It strains reason to suggest, as SIA does, that protection of foreign mask works in the United States under a Presidential proclamation may compromise successful completion of the draft integrated-circuits treaty, which is clearly in the best interest of all countries where semiconductor products are manufactured. The Commissioner sees no valid reason, in the meantime, to withhold permanent U.S. protection for mask works produced in those countries that clearly meet the statutory criteria of eligibility in section 902(a)(2)(A) and (B) of the SCPA.

Issuance of final rules implementing the Presidential proclamation provisions of section 902 is forthcoming. Once issued, the Commissioner will take appropriate steps to assure that U.S. protection is made available to eligible foreign mask works. Interim protection under section 914 will continue in force for one additional year, that is, until May 31, 1989.

Order Extending the Expiration Date for Interim Protection Orders Issued Under Chapter 9 of Title 17, United States Code

In accordance with the authority vested in me by Amendment 2 to Department Organization Order 10–14 regarding 17 U.S.C. 914, and based upon the record of this proceeding commenced on November 18, 1987, I find that Australia, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom are making good faith efforts toward providing protection for U.S. mask works in conformity with 17 U.S.C. 902(a)(2). I find further that nationals, domiciliaries and sovereign authorities of those countries, and persons controlled by them, are not engaged in the misappropriation, unauthorized distrubution or unauthorized commercial exploitation of mask works. I find further that the extension of the expiration date for interim orders for those countries will promote the purposes of the Semiconductor Chip Protection Act of 1984 and international comity with respect to the protection of mask works.

Accordingly, the existing interim orders for Australia, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Portugal, Spain, Sweden, Switzerland and the United Kingdom are hereby extended and shall terminate on May 31, 1989.

Donald J. Quigg

Assistant Secretary and Commissioner of Patents and Trademarks.

Date: April 29, 1988.

[FR Doc. 88–10091 Filed 5–5–88; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1988 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 6, 1988.

ADDRESS: Committee for Purchase from the Blind And Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr. (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 21, 1987 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (52 FR 31659) of proposed additions to and deletions from Procurement List 1988, December 10, 1987 (52 FR 46926).

The current contractor for this item submitted comments in response to the notice in the **Federal Register** of its proposed addition to the Procurement List.

The commenter indicated that his firm had been successfully supplying this strap for the past five years, it is not suitable for production since it is a safety-critical item and the addition of the strap to the Procurement List, when combined with two other items added to the Procurement List in the past, constitutes severe impact on his firm.

The workshop which will produce this item is currently producing a similar safety belt satisfactorily, meeting all of the safety and specification requirements of the Government. In fact, this –1210 strap is a component of a parachute harness produced by the workshop; thus, the workshop has produced this strap satisfactorily.

A Safety Belt, NSN 1680–00–407–5335, was added to the Committee's Procurement List on March 11, 1988. The firm's contract for that item was $118,896. That contract was awarded in September 1986 with deliveries scheduled to be completed in July 1987.

A safety Belt, NSN 1680–00–725–5827, was added to the Procurement List in November 1983. The value of the firm's contract for that item at the time it was added to the Procurement List was $418,305 and represented 12% of the firm's annual sales of about $3.5 million at that time. The addition of the 5927 strap in 1983 is not included in determining the cumulative impact on the commenter's firm since it occurred over five years ago.

The current value of the firm's contract for the Quick Release Strap (1670–01–079–1210) is $47,092, which represents 1.9% of its annual sales of about $2.5 million. That contract was awarded in 1986 with deliveries to be completed in November 1986. The cumulative value of additions of the –5335 belt and the –1210 strap is $165,938 or 6.6%. This is not considered to be severe impact.

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordngly, the following commodity is hereby added to Procurement List 1988:

Strap, Quick Release
1670–01–074–1210

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 88–10095 Filed 5–5–88; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1988 Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1988 commodities and military resale commodities to be produced by workships for the blind or other severely handicapped.

EFFECTIVE DATE: June 6, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr. (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 11, 1988 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (53 FR 7963) of proposed additions to and deletions from Procurement List 1988, December 10, 1987 (52 FR 46926).

Additions

After consideration of the relevant matter presented, the Committee has determined that the military resale commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6. I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the military resale commodities and commodity listed.

c. The actions will result in authorizing small entities to produce the military resale commodities and commodity procured by the Government.

Accordingly, the following military resale commodities are hereby added to Procurement List 1988:

Military Resale Item Nos. and Names

No. 620 Vest, Safety, Joggers, Small
No. 621 Vest, Safety, Joggers, Medium
No. 622 Vest, Safety, Joggers, Large

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and military resale commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

Commodity

Refill, List Finder, Automatic
7510–00–285–2800

Military Resale Item Nos. and Names

No. 940 Towel, Heritage Design
No. 942 Dish Cloth, Heritage Design

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 88–10096 Filed 5–5–88; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Secretary's Commission on Base Realignment and Closure

SUMMARY: Under the provisions of Pub. L. 92–463. "Federal Advisory Committee Act," notice is hereby given that the Defense Secretary's Commission on Base Realignment and Closure has been determined to be in the public interest and has therefore been established.

The Commission will study the issues surrounding military base realignment and closure within the United States, its commonwealths, territories, and possessions. The primary objectives of the Commission will be: (a) to determine the best process, including necessary administrative changes, for identifying bases to be closed or realigned; how to improve and best use Federal Government incentive programs to overcome the negative impact of base closure or realignment; and the criteria for realigning and closing bases; (b) review the current and planned military base structure in light of force structure assumptions, and the process and criteria developed to conduct a comprehensive review, and identify which bases should be realigned or closed; and, (c) report findings and recommendations to the Secretary of Defense by December 31, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 4, 1988.

[FR Doc. 88–10181 Filed 5–4–88; 12:08 pm]

BILLING CODE 3810–01–M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: June 16, 1988, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting will be devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Advanced Air Defense.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10111 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations; Meeting

ACTION: Change in location of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Defense Industrial Cooperation With Pacific Rim Nations scheduled for May 5–6, 1988 as published in the Federal Register (Vol. 53, No. 44, Page 7225, Monday, March 7, 1988, FR Doc. 88–4841) will be held at

the Institute for Defense Analyses, Alexandria, Virginia.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10109 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Technological and Operational Surprise; Meeting Cancellation

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Technological and Operational Surprise scheduled for May 3–4, 1988 as published in the **Federal Register** (Vol. 53, No. 35, Page 5293, Tuesday, February 23, 1988, FR Doc 88–3773) has been cancelled.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10110 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures; Meeting

ACTION: Change in date of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures scheduled for April 25–26, 1988 as published in the **Federal Register** (Vol. 53, No. 67, Page 11545, Thursday, April 7, 1988, FR Doc. 88–7633) will be held on May 10–11, 1988. This notice supercedes the change previously submitted to the original submission in **Federal Register** (Vol. 53, No. 14, Page 1815, Friday, January 22, 1988, FR Doc. 88–1314).

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10105 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures; Meeting

ACTION: Change in location of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures scheduled for April 27, 1988 as published in the **Federal Register** (Vol. 53, No. 59, Page 9964, Monday, March 28, 1988, FR Doc. 88–6661) will be held at the Pentagon, Arlington, Virginia.

May 2, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88–10106 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Use of Commercial Components in Military Equipment; Meeting

ACTION: Change in location and partially opening session of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Use of Commercial Components in Military Equipment scheduled for May 11, 1988 as published in the **Federal Register** (Vol. 53, No. 14, Page 1815, Friday, January 22, 1988, FR Doc. 88–1315) will be held at the TRW Corporation, Merrifield Virginia and will be in Open Session from 10:00 a.m. until they adjourn. In all other respects the original notice remains unchanged.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10107 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board 1988 Summer Study on Defense Industrial and Technology Base; Meeting

ACTION: Change in location of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board 1988 Summer Study on Defense Industrial and Technology Base scheduled for May 17, 1988 as published in the **Federal Register** (Vol. 53, No. 40, Page 6189, Tuesday March 1, 1988, FR Doc. 88–4403) will be held at Science Applications International Corporation, Tysons Corner, Virginia.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10108 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable form, and Applicable OMB Control Number: AFROTC Nonscholarship Referrals; ATC Form (no assigned number); and No OMB Control Number.

Type of Request: New.

Annual Burden Hours: 4,200.

Annual Responses: 25,200.

Needs and uses: The Air Force needs the information to be able to identify and enroll high quality, first year college students into the AFROTC program. Air Force recruiters will use the information to refer interested and qualified high school students and graduates to AFROTC detachments. Detachment recruiting officers will contact students referred and encourage enrollment in AFROTC on a nonscholarship basis.

Affected Public: High school and college students.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10103 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the

Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable form, and Applicable OMB Control Number: Credentials Evaluation of Health Care Practitioners; AF Form 1562; and OMB Control Number 0701–0097.

Type of Request: Extension.

Annual Burden Hours: 3,150.

Annual Responses: 4,200.

Needs and Uses: The Air Force uses this form to collect information about the qualifications of health care practitioners who wish to join or be employed by the Air Force. The Air Force needs this information to make an objective evaluation of an applicant's qualifications. The Air Force makes the evaluation to help decide whether an applicant should be employed as a health care practitioner.

Affected Public: Individuals.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison WHS-DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1988.

[FR Doc. 88–10104 Filed 5–5–88; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before June 6, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 3, 1988.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: New

Title: Lender's Participation Questionnaire

Frequency: Annually

Affected Public: Businesses or other for-profit; non-profit institutions

Reporting Burden:

Responses: 12,000

Burden Hours: 3,000

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: This form is used by lenders who are eligible for reimbursement of interest, special allowances and Federal Insured Student Loan (FISL) claim payments under the Guaranteed Student Loan Program. The information will be used to update lender identification numbers, lender names, addresses and other pertinent information.

Type of Review: Extension

Title: Institutional Quality Control Project

Frequency: Quarterly

Affected Public: Businesses or other for-profit; non-profit institutions; small businesses or organizations

Reporting Burden:

Responses: 80

Burden Hours: 10,880

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: The Institutional Quality Control Workbook will be used by financial aid administrators in coordination with the performance of quality control activities related to the institutions' administration of Federal student financial aid programs.

Type of Review: Revision

Title: Application for Federal Student Aid

Frequency: Annually

Affected Public: Individuals or households

Reporting Burden:

Responses: 6,800,330

Burden Hours: 7,906,743

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: This form will collect information from students who are applying for Federal student aid. The Department will determine eligibility for student aid under the Department's student financial assistance programs.

Type of Review: New

Title: Application for Grants under the Graduate Assistance in Areas of National Need Program

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden:

Responses: 200

Burden Hours: 1,000

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: This form will be used by postsecondary institutions to apply for funding under the Graduate Assistance in Areas of National Need Program. The Department will use the information to make grant awards.

Type of Review: Revision

Title: Application for Grants under the Jacob K. Javits Fellows Program
Frequency: Annually
Affected Public: Individuals or households
Reporting Burden:
Responses: 1,500
Burden Hours: 7,500
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by graduate students to apply for funding under the Jacob K. Javits Fellows Program. The Department will use the information to make grant awards.

Type of Review: Extenion
Title: Performance Report for International Education Programs
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 425
Burden Hours: 425
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: Institutions of higher education that have participated in the National Resource Centers Program are to submit this report to the Department. The Department uses the information to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Type of Review: Extension
Title: Application for Grants under the Law School Clinical Experience Program
Frequency: Annually
Affected Public: Businesses and other for-profit
Reporting Burden:
Responses: 56
Burden Hours: 1,400
Recordkeeping:
Recordkeepers: 0
Burden Hours: 0
Abstract: This application will be used by Postsecondary Institutions to apply for funds under the Law School Clinical Experience Program. The Department will use the information to make grant awards.

[FR Doc. 88-10121 Filed 5-5-88; 8:45 am]
BILLING CODE 4000-01-M

National Advisory Council on Education; Meeting

AGENCY: National Advisory Council on Adult Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: May 23-24, 1988, 8:30 a.m. to 5:00 p.m., Executive Committee Meeting.

ADDRESS: Council office: 330 C Street SW., Conference Room 4409, Mary E. Switzer Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen S. Saunders, National Advisory Council on Adult Education, 330 C Street SW., Room 4060, Mary E. Switzer Building, Washington, DC 20202-2421, (202) 732-3896.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1209). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Executive Committee is open to the public. The proposed agenda includes:

Old Business
Symposium Publication
Council Reports
New Business—Liquidation of Council

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 330 C Street SW., Room 4060, Mary E. Switzer Building, Washington, DC 20202-2421, from the hours of 8:30 a.m. to 5:30 p.m.

Signed at Washington, DC, on May 3, 1988.

Lynn Ross Wood,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 88-10130 Filed 5-5-88; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Enhancing the Use of Eastern and Midwestern Coals by Gas Reburning-Sorbent Injection at Illinois Power Company, Hennepin Station Boiler No. 1, Hennepin, IL

AGENCY: Department of Energy.

ACTION: Statement of Findings.

SUMMARY: Information contained in this Statement of Findings is presented in support of the decision by the Department of Energy (DOE) to fund, in part, a project entitled "Enhancing the Use of Eastern and Midwestern Coals by Gas Reburning-Sorbent Injection at Illinois Power Company, Hennepin Station Boiler No. 1." The related Floodplain/Wetlands Involvement Notification was published in the **Federal Register**, Vol. 53, No. 32, Page 4875, dated February 18, 1988. A Floodplain/Wetlands Assessment was prepared, in accordance with the requirements of 10 CFR 1022.12.

DATE: No action will be taken until May 23, 1988.

ADDRESS: Requests for copies of the Floodplain/Wetlands Assessment can be directed to the Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA, 15236. All communications should refer to the project title.

FOR FURTHER INFORMATION CONTACT: Dr. Earl Evans, Environmental Project Manager, Pittsburgh Energy Technology Center, Department of Energy, Pittsburgh, PA, (412) 892-6237.

I. Project Description

The proposed demonstration project will be performed at the Illinois Power Company, Hennepin Station, Unit 1. Hennepin Station occupies a 533-acre site on the shores of the Illinois River. Located in Putnam County, the site is approximately two miles northeast of Hennepin, Illinois, and about 85 miles west-southwest of Chicago. The Department of Energy (DOE) is making the presumption that all 533 acres of the Hennepin Station site are located within the 100-year floodplain. There are now known wetland areas on the site. The Station contains two coal fired steam electric generating units with a total net generating capacity of 310 MWe. The project will be conducted in Unit 1, an 80 MWe tangentially fired boiler.

This proposed project is intended to demonstrate that gas reburning-sorbent injection (GR-SI) technologies can provide a cost effective approach for the reduction of NO_x and SO_2 emissions

from coal fired burners. In general, GR–SI involves the introduction of natural gas above the main heat release zone in the boiler to reduce the formation of NO_x. Downstream of this point, burnout air and a sorbent derived from limestone are injected into the fuel gas stream and reacts with gas phase SO_2/SO_3 to form calcium sulfate. The calcium sulfate is subsequently removed along with fly ash by the plant particulate control equipment and combined with bottom ash to be disposed of as solid waste. These waste streams are sluiced to on-site ash ponds within the floodplain for disposal

Most project construction will involve retrofit to the existing power plant. The only construction that will occur external to the boiler unit, and could therefore affect floodplain values, would be the installation of a sorbent storage silo with an associated runoff area and feeder equipment in a disturbed area immediately adjacent to Unit 1. Once the equipment has been installed, the GR–SI demonstration will be run for a period of 12 months. Under normal operating conditions, 12 months of solid waste generation for Unit 1 would require approximately 9.8 acre-feet of disposable volume. Under the proposed action, the Unit 1 requiremens will increase to 21–34 acre-feet of disposal volume, depending on compaction density of the GR–SI waste. After the GR–SI demonstration, the plant will return to generating approximately 9.8 acre-feet per year.

To demonstrate the potential for retrofitting existing coal fired power plants with the GR–SI technology and thereby achieve the expected 60% reduction in nitrogen oxides (NO_x) and 50% reduction in sulfur dioxide (SO_2), it is necessary to select an appropriate operating power plant. Selection from among existing plants is restricted by the fact that power generating plants, due to their need for cooling water, have historically been located on the shores of rivers and are, therefore, commonly found within the 100-year floodplain. After analysis of alternatives (see Section III), the Hennepin site was selected.

II. Floodplain Impacts

Impacts of Construction

All project construction will occur on the existing site. The largest share of the construction will involve internal structure retrofit that will have no impact on floodplain values. External construction will be limited to the 0.1 acre of disturbed habitat that will be utilized for sorbent storage and feeding equipment. Mitigation of floodplain impacts will be achieved through minimizing the size of the affected area.

Impacts of Operation

Operation of the GR–SI demonstration project will produce an increased volume of solid waste to be disposed into the existing ash pond at Hennepin Station. Under normal operation without GR–SI, Unit 1 would generate 9.8 acre-feet of waste per year. With GR–SI, solid waste volume would increase to between 21 and 34 acre-feet for a one-year demonstration period. The increment of 11.6 to 24.2 acre-feet volume that is expected to result from the proposed action represents 1.2 to 2.5 years of Unit 1 solid waste production without GR–SI. The remaining volume of the Unit 1 ash pond available for disposal is estimated at 163 acre-feet, or 16.6 years of remaining usable life without GR–SI. The proposed action will hasten the day, by an estimated 1.2 to 2.5 years, when Hennepin Station must turn to alternative disposal options.

III. Consideration of Alternatives

One goal of DOE's Clean Coal Technology Program is to demonstrate the benefits of air emissions reduction that can be achieved through retrofitting three different types of coal fired boilers with the GR–SI technology. The three types of boilers are selected to represent a large segment of the existing boiler populations including tangentially fired, front wall fired and cyclone fired boilers. Hennepin Station represents the alternative site selected to represent the tangentially fired boiler population. The "no action" alternative, i.e., not demonstrating GR–SI, would limit the options for demonstrating reduction SO_2 and NO_x emissions through the use of this retrofit technology.

Two other retrofit technologies for emission reduction are currently available for commercial operation in coal fired power plants. These are the wet limestone flue gas desulfurization and the spray dryer SO_2 control processes, both of which would require a significantly greater amount of land for installation construction than the proposed action. Selection of the GR–SI alternative will minimize potential impact to the floodplain by limiting the area required for construction.

Six sites were investigated by DOE for the proposed demonstration of the GR–SI technology through retrofit of an operational generating plant. Three of the six sites were found to lack the necessary characteristics of existing design, technical feasibility and boiler configuration. All three of the remaining alternative sites, including Hennepin Station, for the reason previously identified, have a floodplain imvolvement. All three sites have been selected for use for GR–SI demonstration projects, to represent each of the three classes of boiler population.

The two sources of foodplain impact associated with this project are due to construction and waste disposal. The construction-related impacts have been mitigated by minimization of the additional facility to 0.1 acre within the 533-acre existing Hennepin site.

The alternative of transporting the fly ash to an area outside the floodplain for disposal, rather that adding to the amount already scheduled for disposal within the existing ash pond, was also analyzed. Locations for fly ash disposal elsewhere than on Hennepin Station are limited by the availability of land, distance, space requirements, ownership, drainage, accessibility and esthetics.

The proposed site was selected because it is within an operating, on-site ash pond that allows for immediate access from the power plant and provides for cost-effective disposal of ash during the period of the demonstration project and substantially beyond that time period. Due to the costs and distances involved, the alternative of transporting the fly ash to a site outside of the floodplain was deemed not practicable, within the meaning of DOE's regulations for compliance with the floodplain environmental review requirements found at 10 CFR 1022.4(3)(p).

IV. Determination

As a result of its review of alternatives and evaluation of the environmental impacts, DOE has determined that there is no practical alternative to locating the fly ash disposal site in a floodplain. All actions will be in conformity with local floodplain protection standards and the requirements of the Illinois Department of Transportation and the U.S. Army Corps of Engineers pertaining to floodplains.

Issued at Washington, DC, May 3, 1988.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88–10092 Filed 5–5–88; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3375-2]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed April 25, 1988 Through April 29, 1988 Pursuant to 40 CFR 1506.9

EIS No. 880131, Draft, COE, OK, Coal Creek Local Flood Protection, Implementation, City of Henryetta, Okmulgee County, OK, Due: June 20, 1988, Contact: J. Paul Mace (918) 581-7857.

EIS No. 880132, Final, VAD, CA, Northern California Veteran Administration, National Cemetary Development, Alameda and Merced Counties, CA, Due: June 6, 1988, Contact: Susan Livingstone (202) 233-2922.

EIS No. 880133, Draft, FHW, WA, I-90 Improvements, Four Lakes to the Idaho State Line, Funding and 404 Permit, Spokane County, WA, Due: June 20, 1988, Contact: P.C. Gregson (206) 753-2120.

EIS No. 880134, DSuppl, BLM, AK, Utility Corridor Planning Area Resource Management Plan and Central Arctic WSA Recommendations, Preferred Alternative Modification, Additional State Land Selections, Implementation, AK, Due: June 20, 1988, Contact: Dave Ruppert (907) 356-5182.

EIS No. 880135, Final, FHW, WI, WI-TH-83 Improvement, I-94 to Cardinal Lane/WI-TH-16, Funding and 404 Permit, Waukesha County, WI, Due: June 6, 1988, Contact: Robert W. Cooper (608) 264-5940.

EIS No. 880136, Final, AFS, CA, Gallatin Marina (Formerly Eagle Lake Marina) Future Development Policy, Approval, Special Use and 404 Permits, Lassen National Forest, Lassen County, CA, Due: June 6, 1988, Contact: Steve Young (916) 257-2151.

EIS No. 880137, Draft, AFS, ID, Boise National Forest, Land and Resource Management Plan, Implementation, Ada, Boise, Gen, Elmore, Valley and Washington, ID, Due: August 4, 1988, Contact: David Rittersbacher (208) 334-1516.

EIS No. 880138, Final, AFS, ID, Payette National Forest, Land and Resource Management Plan, Implementation, Adams, Idaho, Valley and Washington Counties, ID, Due: June 6, 1988, Contact: Veto LaSalle (208) 634-8151.

EIS No. 880139, DSuppl, NOA, AK, Groundfish Fishery of the Bering Sea and Aleutian Islands, Fishery Management Plan, Increase of the Optimum Yield Range, Implementation, AK, Due: June 20, 1988, Contact: Robert W. McVey (907) 586-7221.

EIS No. 880140, Draft, FHW, WA, Riverside Parkway/Bothell Bypass Construction, Funding, Section 10 and 404 Permits, City of Bothell, King County, WA, Due: June 20, 1988, Contact: P.C. Gregson (206) 753-2120.

EIS No. 880141, DSuppl, NRC, PA, Three Mile Island Nuclear Power Station, Decontamination/Disposal of Radioactive Waste, Resulting from the March 28, 1979 Accident, Post Defueling Monitored Storage (PDMS), Londonderry Township, Dauphin County, PA, Due: June 20, 1988, Contact: Michael Masnik (301) 492-1373.

EIS No. 880142, Final, USN, NJ, Colts Neck, Naval Weapons Station Earle Family Housing Development, Construction, Mammouth County, NJ, Due: June 6, 1988, Contact: Thomas Peeling (202) 325-7344.

Amended Notices

EIS No. 880127, DSuppl, COE, CA, Santa Ana River Mainstem and Santiago Creek Multipurpose Flood Control Project, Additional Alternatives and Updated Information, Riverside, Orange and San Bernardino Counties, CA, Due: June 20, 1988, Contact: Mr. Dee Gonzales (213) 894-7053. Published FR 4-29-88—Review period reestablished. The 45 day NEPA review period is calculated from 5-6-88.

EIS No. 880129, Final, COE, MO, Coldwater Creek Watershed Flood Damage Reduction and Related Improvement Plan, Implementation, St. Louis County, MO, Due: May 31, 1988, Contact: James Zerega (314) 263-5600. Published FR 4-29-88—Incorrect Accession Number, published as 880118.

EIS No. 880130, Final, FAA, CT, Groton-New London Airport Runway 5 Medium Intensity Approach Lighting System Installation, Funding, City and Town of Groton, CT, Due: May 31, 1988, Contact: Mr. M. Ashraf (617) 273-7060. Published FR 4-29-88—Incorrect Accession Number, published as 880119.

Dated: May 3, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88-10128 Filed 5-5-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3375-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 18, 1988 through April 22, 1988 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No. D-BLM-G40120-NM, Rating LO, Socorro Resouce Area Management Plan, Implementation, Las Cruces District, Socorro and Catron Counties, NM.

Summary

EPA has no obejctions to the proposed project. However, the EPA suggests that BLM provide additional management practice for ORV use and grazing to reduce impacts from erosion.

ERP No. D-BOP-F81012-IL, Rating EC2, East Peoria Federal Correctional Institution Complex, Construction and Operation, Tazewell County, IL.

Summary

EPA is concerned that this document does not discuss the loss of prime farmland. The final EIS should provide an analysis of the alternative sites considered with information on the prime farmland, wetlands, etc., to be impacted for each.

ERP No. D-DOE-L10004-00, Rating EC2, Special Isotope Separation Production Plant Construction and Operation and the use of Atomic Vapor Laser Isotope Separation Technology, Site Selection and Implementation, Idaho National Engineering Laboratory near Idaho Falls, ID, Handford Site near Richland, WA and Savannah River Plant near Aiken, SC.

Summary

EPA recommends additional analysis because the document did not include enough detailed information for the accident analyses to determine if the accidents presented are the worst that can be reasonably postulated.

ERP No. D-FHW-E40713-KY, Rating EC2, Richmond Bypass Extension, US 25/421 North to US 25/421 South, Funding, Madison County, KY.

Summary

EPA has concerns with potential noise and channel relocation impacts and the lack of mitigation proposals to minimize or offset these impacts.

ERP No. D–FHW–L40159–AK, Rating EO2, Glenn Highway Improvement, Village of Eklutna to Parks Highway, Funding and Section 404/10 Permit, Municipality of Anchorage, Matanuska-Susitna Borough, AK.

Summary

EPA's primary environmental objection to the project centers on the avoidable loss of high value aquatic resources associated with the preferred interchange option. Additional information and clarification are also needed regarding secondary impact, water quality, mitigation, and construction methods and impacts.

ERP No. D–FHW–L40160–WA, Rating EC2, WA–20 Widening, Weeman Bridge to Winthrop, Funding and Possible 404 Permit, Okanogan County, WA.

Summary

EPA's concerns are based on the potential for water quality effects and potential impacts on anadromous fish and their habitat. Additional information is needed on site-specific water quality, characterization and quantification of highway runoff pollutants, and mitigation for wetland impacts.

Note: The above summary should have appeared in the 04–29–88 FR Notice.

Final EISs

ERP No. F–BPA–L09800–00, Pacific Northwest/Pacific Southwest Intertie, Capacity Increase and Long Term Intertie Access Policy Development Plan, Implementation, WA, OR, ID, MI, WY, CA, NV, UT, NM and AZ.

Summary

EPA has found this project to be satisfactory. No formal comments were made to the agency.

ERP No. F–COE–G36138–NM, Cuchillo Dam/Cuchillo Negro Creek and Rio Grande Flood Control Plan, Truth or Consequences and Williamsburg Areas, Implementation, Sierra County, NM.

Summary

EPA has no objections to the proposed project.

ERP No. FS–FHW–E40146–NC, US 74/ Independence Boulevard Corridor Improvements, Mecklenburg County to Uptown Charlotte, Additional Alternatives, Funding, Mecklenburg County, NC.

Summary

EPA's concern remains based on the notice impacts associated with the preferred alternative (high occupancy vehicle lane addition). Noise barriers proposed for the project should adequately reduce noise levels at most residential sites.

Dated: May 3, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–10129 Filed 5–5–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

National Registry Proposal; Procedures; Development; Open Meeting

ACTION: Notice of Meeting.

Time and Date: 8:30 a.m.–4:00 p.m., May 20, 1988.

Place: Conference Room, Building 32, Agency for Toxic Substances & Disease Registry, 4770 Buford Highway, Chamblee, GA 30341.

Status: Open to the public for observation and participation, limited only by the space available.

Matters to be Considered: The following meeting will be convened by the Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Public Health Service, to discuss the "Proposed Procedures Document for the National Registry of Persons Exposed to Toxic Substances: (The National Exposure Registry)," in order to finalize the document for publication.

Contact Person for more Information: JeAnne Burg, Ph.D., Chief, Exposure and Disease Registry Branch, ATSDR, 1600 Clifton Road, NE., MS–F–38, Atlanta, Georgia 30333. Telephones: FTS: 236–4810; Commercial: 404/488–4810.

Dated: May 2, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 88–10067 Filed 5–5–88; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

Third National Conference on Chronic Disease Prevention and Control; Meeting

ACTION: Notice of meeting.

Time and Date:

8:30 a.m. to 5:00 p.m.—October 19–20, 1988

8:30 a.m. to 12:00 noon—October 21, 1988

Place: Hyatt Regency Denver, 1750 Welton Street, Denver, Colorado 80202

Status: Open to the public, limited only by the space available.

Matters to be Considered: The Third National Conference on Chronic Disease Prevention and Control: *Putting Science into Practice* will be convened by the Centers for Disease Control and the Association of State and Territorial Health Officials. There will be no registration fee.

The Conference will build on the strategies identified by participants at the First and Second National Conferences on Chronic Disease Prevention and Control. Those two conferences placed particular emphasis on the interactions among Federal, State, and local health departments, voluntary health agencies, professional organizations, and others. This has served to forge new working relationships and to start the building of a strong, broadly representative coalition for chronic disease prevention.

This year's conference will include plenary sessions that address the following topics:

—Health Education/Mass Media Approaches for Changing Behaviors

—Preventive Health Services in Primary Care Settings (including benefit/cost and cost-effectiveness of chronic disease prevention and control strategies)

—Long-Term/Broad Strategic Issues for Public Health Chronic Disease Control

In addition, concurrent afternoon sessions will focus on Breast Cancer, Cervical Cancer, Cholesterol/ Cardiovascular Disease, Diabetes, and Smoking.

Contact Person for More Information: Martha S. Brocato, (404) 488–4251; FTS: 236–4251, Division of Chronic Disease Control, Center for Environmental Health and Injury Control, Centers for Disease Control (F10), 1600 Clifton Road NE., Atlanta, Georgia 30333

Dated: April 29, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–10068 Filed 5–5–88; 8:45 am]

BILLING CODE 4160–18–M

National Institutes of Health

National Cancer Institute; Cancellation of Meeting of the Cancer Biology-Immunology Contracts Review Committee

Notice of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, scheduled for June 3, 1988, published in the **Federal Register** (53 FR 13449) on April 25 is hereby cancelled due to the conflicts of schedules of committee members.

For further information, please contact Dr. Wilna Woods, Executive Secretary, Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7153).

Dated: April 29, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–10052 Filed 5–5–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Development of the NIDR Long-Range Research Plan for the Nineties

The National Institute of Dental Research (NIDR) is initiating the development of a Long-Range Research Plan for the 1990s. As part of this effort, a preliminary state-of-the-science report will be prepared for each major area of oral health research to be covered by the plan. These include, but are not limited to:

(1) Acquired Craniofacial Defects
(2) Behavioral Studies
(3) Congenital Craniofacial Malformations
(4) Dental Caries
(5) Dentofacial Malrelations
(6) Fluoride Studies
(7) Mineralized Tissue
(8) Nutrition
(9) Oral Sensory-motor Dysfunctions
(10) Orofacial Pain
(11) Periodontal Diseases
(12) Pulp Biology
(13) Restorative Materials
(14) Salivary Glands and Secretions
(15) Soft Tissue Diseases
(16) Tooth Implants, Replants, and Transplants

The preliminary state-of-the-science report will address the following four questions about each of the above sixteen areas.

(1) What have been the most important advances over the past decade? These could include developments in related fields, new methodologies that directly influence research in the field, and commercial products.

(2) Which specific journal articles, books, patents, techniques, products or other events and discoveries have been most important in establishing the advances?

(3)(a) What will be the most important research issues or problems to be investigated and commercial products to be developed in the particular area during the next ten to fifteen years?

(b) What new areas should be considered in the development of an oral health research plan for the 1990s, e.g., geriatric dentistry, social epidemiology, and new diagnostic approaches, such as biochemical indicators, genetic markers, imaging techniques, and the use of computers?

(c) For each item listed in parts a and b, which individuals, institutions, organizations and companies are likely to be the key players?

(4) What are the implications, if any, for dental education and practice, of the knowledge generated or products developed in the items identified in questions 3a and b?

The NIDR seeks information about these four questions for each of the sixteen areas to be covered in the Long-Range Plan, as well as any new areas you might suggest. All knowledgeable parties are encouraged to submit comments. It is essential that you indicate the specific area(s) for which your response is submitted. Please include your institutional or corporate affiliation, if any. Comments should be forwarded to: Dr. James A. Lipton, Chief, Planning and Evaluation Section, Office of Planning, Evaluation, and Communications, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C–36, Bethesda, Maryland 20892.

If further information is desired, please contact Dr. Lipton at 301–496–6705. All responses must be received by June 30, 1988.

Dated: April 29, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88–10053 Filed 5–5–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on June 6, 1988, from 8:30 a.m. to approximately 5 p.m. at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: April 29, 1988.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 88–10054 Filed 5–5–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–920–08–4212–12; A–20347(D)]

Realty Action; Arizona; Conveyance of Public Land in Exchange for State Land

April 29, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action serves to inform the public and interested State and local governmental officials of the transfer of public land and the conveyance of State land to the Federal Government.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, Bureau of Land Management, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011 (602) 241–5534.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the completion of an exchange between the United States and the State of Arizona. The following described land was transferred to the State of Arizona pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976:

Gila and Salt River Meridian, Arizona

T. 7 S., R. 16 E.,
Sec. 1, lots 1 and 2, S½NE¼;
Sec. 12, SE¼;
Sec. 13, E½, SW¼;
Sec. 14, W½SW¼, SE¼SW¼, S½SE¼, E½NE¼SE¼;
Sec. 15, lot 10.
T. 7 S., R. 17 E.,
Sec. 6, lots 2 thru 5, incl., SW¼NE¼, SE¼NW¼, NE¼SW¼, W½SE¼;

Sec. 7, lots 3 and 4, E½SW¼, SE¼;
Sec. 8, SW¼NE¼, S½NW¼, S½;
Sec. 17, all;
Sec. 18, lots 1 thru 4, incl., E½W½, E½
T. 17 S., R. 19 E.,
Sec. 5, lot 3.
T. 17 S., R. 20 E.,
Sec. 7, N½NE¼.
T. 18 S., R. 20 E.,
Sec. 2, W½SE¼, SE¼SE¼.

The areas described comprise 3,570.12 acres in Cochise and Pinal Counties.

In exchange the following described State-owned land was conveyed to the Untied States:

Gila and Salt River Meridian, Arizona

T. 18 S., R. 21 E.,
Sec. 29, W½SE¼ (Surface only);
Sec. 32, lots 2 and 7.
T. 20 S., R. 21 E.,
Sec. 2, lots 1 to 7, incl., S½NE¼, SE¼ NW¼, SE¼;
Sec. 4, lots 1 to 4, incl., (Surface only).
T. 21 S., R. 21 E.,
Sec. 3, lots 1 to 4, incl., (Surface only);
Sec. 12, N½NE¼, NW¼SW¼.

The areas described comprise 1,099.00 acres in Cochise County.

The land acquired by the United States in this exchange will remain closed to appropriation under the public land laws, including the mining and mineral leasing laws pending completion of an inventory and the planning process.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88–10126 Filed 5–5–88;8:45am]

BILLING CODE 4310–32–M

Fish and Wildlife Service

Receipt of Additional Information With Regard To Application for Permit

The following application has submitted additional information in support of its application for a permit to conduct certain activities with endangered species. This supplemental notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

PRT–725828

Applicant: Michigan Department of Natural Resources, Lansing, Michigan

On March 18, 1988, a notice of application for a permit to import a pair of giant pandas from China for temporary exhibition was published (53 FR 8984) and 30 days was provided for comment. The applicant has now submitted additional information on the specific animals proposed for import, the facilities where the animals would be held and displayed, and more details on how the Chinese authorities would use the funds received to benefit the species.

Documents and other information submitted with the application are available to the public during normal business hours (7:45 am to 4:15 pm) Room 403, 1375 K Street, NW., Washington, DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Washington, DC 20038–7329. Copies of the additional information that has now been received is being provided to all persons who have commented on the original permit notice to facilitate this additional review period. This additional information will also be available to the public as provided above.

Interested persons may comment on this additional information or the original application within 30 days from the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the original applicant and PRT number when submitting comments.

Dated: May 4, 1988.

Marshall P. Jones,

Acting Chief, U.S. Office of Management Authority.

[FR Doc. 88–10173 Filed 5–5–88; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Draft Environmental Assessment; Mineral Validity Examinations in National Park System Units

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of draft environmental assessment for mineral validity examinations in National Park System units.

SUMMARY: The National Park Service proposes systematic validity examinations of 284 unpatented mining claims in six units of the National Park System. These validity examinations will be accomplished during the 10-year period from 1988 to 1998. An Environmental Assessment (EA) that addresses the impact of validity examinations on natural and cultural resources of National Park System units has been prepared and is available for comment. A separate EA, dated June 2, 1987, covered mineral validity examinations in Alaskan units.

DATE: Comments on the draft EA should be received no later than June 20, 1988.

ADDRESSES: Comments on the Draft EA should be submitted to: David L. Sharrow, National Park Service, Mining and Minerals Branch, Land Resources Division, P.O. Box 25287, Denver, CO 80225. Copies of the EA are available on request from this address.

FOR FURTHER INFORMATION CONTACT: Mr. David Sharrow, National Park Service, Mining and Minerals Branch, Land Resources Division, P.O. Box 25287, Denver, CO 80225, (303) 969–2015.

SUPPLEMENTARY INFORMATION: The National Park Service proposes to undertake a multi-year mineral examination program to determine the validity of unpatented mining claims in several units of the National Park System located in the lower 48 states. Unpatented mining claims exist in these units because they were filed prior to the area being withdrawn from mineral entry by an Act of Congress or a Presidential Proclamation. An EA has been prepared that addresses the impacts of conducting validity examinations of 284 unpatented mining claims in Great Basin National Park, Bighorn Canyon National Recreation Area, Lake Mead National Recreation Area, Black Canyon of the Gunnison National Monument, Chiricahua National Monument and Whiskeytown-Shasta-Trinity National Recreation Area. A separate EA, dated June 2, 1987, was prepared for validity examinations being conducted in Alaska.

The purpose of a validity examination is to evaluate an unpatented mining claim to determine if an individual has indeed made a discovery of a valuable mineral deposit as required by the Mining Law of 1872 and case law. If an individual has not located a valuable mineral deposit, the individual does not have a legal right to extract minerals from the claim. In such cases, the claim is invalid and will be deemed null and void by the Bureau of Land Management (BLM). Consistent with the Mining in the Parks Act of 1976, the National Park Service will only consider approving plans of operations on "valid" claims inside National Park System Units. Validity examinations will be conducted under the guidelines of the BLM Handbook for Mineral Examiners (H–3890–1) and BLM Manual 3920. Access to claims will be gained by vehicles on existing roads, or by pack animal or helicopter. Claimants will be notified of pending mineral examinations so that they will have an opportunity to show the mineral examiner discovery points and other pertinent aspects of the discovery. In the event claimants disagree with the results of the validity examination, they can appeal the determination of validity through the

Office of Hearing and Appeals within the Department of the Interior.

Sampling will be conducted by methods similar to those used in making the original discovery. With the exception of bentonite claims in Bighorn Canyon NRA, and the Jeff Davis placer claims in Great Basin National Park, hand sampling will be adequate to evaluate all of the claims.

The vicinity of these mining claims have been, or will be, inventoried to document vegetation, wildlife, cultural resources and existing surface disturbances prior to validity examinations. The area of disturbance resulting from hand-sampling will be minimal, generally limited to 2 to 4 square feet. Impacts to wildlife and vegetation will be minor and short-term as most of the proposed examinations will occur on previously disturbed sites and the area of impact will be very small.

Sampling which may affect listed species or habitat designated as critical to such species will require compliance with section 7 of the Endangered Species Act. Sampling methods that will result in surface disturbance that may affect properties listed or eligible for listing on the National Register of Historic Places will require compliance with section 106 of the National Historic Preservation Act.

The bentonite clay claims in Bighorn Canyon NRA may require that bulk samples as large as one-half cubic yard be taken. Placer claims in Great Basin National Park will be sampled with hand-dug pits or channels or, if necessary, a suction dredge. Sampled material will be panned by hand or fed through a sluice. Wastewater will be settled prior to being discharged into a flowing stream. Excavations will be reclaimed through backfilling, replacement of top soil and replanting with vegetation salvaged from the site.

Dated: April 21, 1988.

Robert Stanton,

Associate Director, Operations.

[FR Doc. 88-10081 Filed 5-5-88; 8:45 am]

BILLING CODE 4310-70-M

Realty Action; Proposed Exchange of Right-of-Way Interest in Federally-owned Lands for Privately-Owned Right-of-Way Interest (Also in Federally-owned Lands) Both Within Custer County, SD

I. It has been determined to be in the best interest of the United States of America for the United States to exchange to the Black Hills Electric Cooperative a right-of-way easement for the purpose of erecting, operating and maintaining an electrical power transmission line over the south 20 feet of the following described Federally-owned lands. The authority for this exchange is the Act of July 15, 1968 (16 U.S.C. 460*l*–22).

This selected right-of-way lies adjacent to the south boundary and within the Wind Cave National Park. The lands involved have been surveyed for cultural resources and endangered and threatened species. An Environmental Assessment has been prepared. These reports along with the Finding of No Significant Impact are available upon request.

Right-of-Way interests only are to be exchanged. There are no leases or permits affecting these lands.

Black Hills meridian

Township 6 South, Range 5 East,
Section 23, N½ N½;
Section 24, N½ NW¼ lying west of U.S. Highway 385.

The right-of-way will contain 3.64 acres, more or less.

The right-of-way over the above lands will be conveyed subject to existing easements for public roads and highways, public utilities and pipelines.

II. In exchange for the right-of-way identified in Paragraph I the United States of America will acquire the right-of-way interest currently held by the Black Hills Electric Cooperative across the center of the same lands described above. Acquisition of this existing right-of-way will enable the power line to be relocated to the southern boundary of Wind Cave National Park which will lessen the impact of this line upon the park. The existing right-of-way interest only is to be acquired.

The area of the existing right-of-way, including two service taps therefrom, is 4.24 acres, more or less.

The value of the interests to be exchanged has been determined by a current valuation report to be approximately equal.

Detailed information concerning this exchange including environmental assessment, cultural reports and Finding of No Significant Impact are available at the office of the Superintendent, Wind Cave National Park, Hot Springs, South Dakota 57747.

For a period of 45 calendar days from the date of this notice, interested parties may submit comments to the above address. Adverse comments will be evaluated and this action may be modified or vacated accordingly. In the absence of any action to modify or vacate, this realty action will become the final determination of the Department of Interior.

Dated: April 19, 1988.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 88-10082 Filed 5-5-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Agri-Empresa, Inc., 1355 County Road I–33 West, Midland, Texas 79711.

2. Wholly-owned subsidiaries which will participate in the operations, and State of Incorporation: Agri-Empresa Transportation, Inc., 1355 County Road I–33 West, Midland, Texas 79711.

Noreta R. McGee,

Secretary.

[FR Doc. 88-10072 Filed 5-5-88; 8:45 am]

BILLING CODE 7035-01-M

[No. MC–F–19009]

Motor Carriers; Monfort Food Distributing Co. et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Monfort Food Distributing Co. (Monfort Food), a noncarrier, seeks an exemption from the requirement of prior regulatory approval for its purchase of a portion of the operating rights of Steinbecker Brothers, Inc. (Steinbecker) (MC–151471).

The rights being transferred authorize: (1) The common carrier transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), and (2) the contract carrier transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), under continuing contracts with shippers and receivers of such commodities. The Motor Carrier Board has granted temporary authority to Monfort Food to lease Steinbecker's operating rights.

Monfort Food is a wholly-owned subsidiary of Monfort of Colorado, Inc., which in turn is a noncarrier subsidiary of ConAgra, Inc. At the time this petition was filed ConAgra controlled, directly or indirectly, nine motor carriers: Armour Food Express Company (MC–140364 and MC–152245); Balcom Chemicals, Inc. (MC–174324); Lynn Transportation Company, Inc. (MC–133604), U.S. Tire, Inc. (MC–170511); Yellowstone Valley Chemicals, Inc. (Yellowstone) (MC–185117); ConAgra Transportation, Inc. (Transportation) (MC–150422); Monfort Transporation Co., (MC–144572); Miller Bros. Co., Inc. (Miller) (MC–117699); and Longmont Transportation Co., Inc. (MC–141668). Yellowstone and Miller also hold property broker authority and Transportation also holds water carrier authority in No. W–1333.

Under 49 U.S.C. 11343(a)(5), the Commission's prior approval is required for the acquisition of a carrier by a person that is not a carrier but that controls any number of carriers. Here, ConAgra, a noncarrier, already controls nine carriers, and will control a tenth, upon consummation of Monfort Food's purchase of Steinbecker's operating authority. Therefore, Monfort Food's purchase and ConAgra's control of the new carrier are subject to the Commission's jurisdiction and can be carried out only under Commission regulation or exemption from regulation.

Petitioners assert that the transaction is of limited scope in that it involves the addition of only a single carrier to the existing ConAgra system whose affiliation already has been approved by the Commission, and that the transaction will not threaten shippers with an abuse of market power because of the competitive structure of the motor carrier industry.

DATES: Comments must be received by June 6, 1988.

ADDRESSES: Send comments (an original and 10 copies), referring to Docket No. MC–F–19009 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioners' representative: John T. Wirth, Esq., Nelson & Harding, 717 Seventeenth Street, Denver, CO 80202

FOR FURTHER INFORMATION CONTACT: Jasneth C. Metz, (202) 275–7974, [TDD for hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Petitioner seeks an exemption under 49 U.S.C. 11343(e) and the Commission's regulations in *Procedures-Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982)

A copy of the petition may be obtained from petitioners' representative, or it may be inspected at the Washington, DC offices of the Interstate Commerce Commission during normal business hours. (Assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: April 29, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–10073 Filed 5–5–88; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31258]

Ohio Railroad Corp.; Continuance in Control Exemption; Ohio Central Railroad Co.

Ohio Railroad Corporation (ORC) has filed a notice of exemption to continue in control of Ohio Central Railroad Company (OCR). ORC, a non-carrier, controls two class III railroads: the Ohio Southern Railraod and Youngstown & Austintown Railroad.

OCR, another subsidiary of ORC, has filed a notice of exemption in Finance Docket No. 31256, *Ohio Central Railroad—Exemption—Acquisition and Operation of a Line of Railroad in Ohio.* There, OCR seeks an exemption to purchase and operate 70.6 miles of rail line between Harmon and Zanesville, OH, that was formerly operated by the Norfolk and Western Railway Company.

ORC indicates that: (1) OCR will not connect with any railroads in the ORC corporate family; (2) the continuance is not part of a series of transactions that would connect any railroad in the ORC coporate family; and (3) the transaction does not involve a class I carrier. Therefore, this transaction involves the continuance in control of a nonconnecting carrier, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 28, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–9965 Filed 5–5–88; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30075; Sub-No. 1]

Burlington Northern Railroad Co.; Trackage Rights Exemption

Dakota, Minnesota and Eastern Railroad Corporation (DM&E) has agreed to grant to Burlington Northern Railroad Company (BN) trackage rights as a supplement to previously existing trackage rights. The supplemental agreement grants BN the right to transport traffic originating at or destined to Huron, SD, on trackage owned by DM&E between Huron and Wolsey, SD, a distance of 12.9 miles. The instant rights supplement and modify the bridge trackage rights between Huron and Wolsey, which BN acquired from DM&E's predecessor in interest, Chicago and North Western Transportation Company. The initial rights restricted BN from moving traffic over the joint line which originated or terminated at Huron or Wolsey. The supplemental rights were proposed to become effective April 27, 1988.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: May 3, 1988.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary

[FR Doc. 88–10183 Filed 5–5–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

Dated: May 2, 1988.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the

Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) and estimate of the total number of respondents and the amount of estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and (7) an indication as to whether section 3504(h) of Pub. L. 96–511 applies.

Comments and/or questions regarding the item(s) contained in this notice should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395–7340 and to the Department of Justice's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer and the Department of Justice's Clearance Officer of your intent as soon as possible.

The Department of Justice's Clearance Officer is Larry E. Miesse who can be reached on (202) 633–4312.

New Collection

(1) Application for Certificate of Citizenship in Behalf of an Adopted Child
(2) N–603, Immigration and Naturalization Service
(3) On occasion.
(4) Individuals or households. This application is to be filed by U.S. citizen parent or parents in behalf of an adopted alien child.
(5) 10,000 respondents at .5 hours each.
(6) 5,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Application for Issuance or Replacement of Northern Mariana Card
(2) I–777, Immigration and Naturalization Service
(3) On occasion.
(4) Individuals or households. This application is to be filed by a U.S. citizens of the Northern Mariana Islands, who were born prior to 11/2/86 and acquired citizenship under Pub. L. 94–241. The benefit adjudicated is the issuance of or replacement of a U.S citizen ID card. The issuance program expires 7/1/91, but the replacement program will remain in effect.
(5) 10,000 respondents at .5 hours each.
(6) 5,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 88–10102 Filed 5–5–88; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

District of Columbia:
DC88–1 (Jan. 8, 1988)—pp. 78–79, pp. 82–84
New York:
NY88–14 (Jan. 8, 1988)—p. 810
Pennsylvania:

PA88–1 (Jan. 8, 1988)—pp. 840, 842, pp. 846–849
PA88–8 (Jan. 8, 1988)—pp. 912, 914

Volume II

Illinois:
IL88–1 (Jan. 8, 1988)—pp. 68, 70–71, pp. 74, 77–78
IL88–2 (Jan. 8, 1988)—pp. 97–98
IL88–3 (Jan. 8, 1988)—p. 114
IL88–4 (Jan. 8, 1988)—p. 120
IL88–5 (Jan. 8, 1988)—p. 126
IL88–13 (Jan. 8, 1988)—p. 174
IL88–14 (Jan. 8, 1988)—p. 184
IL88–15 (Jan. 8, 1988)—p. 194
IL88–16 (Jan. 8, 1988)—p. 204
IL88–17 (Jan. 8, 1988)—p. 214
Indiana:
IN88–1 (Jan. 8, 1988)—pp. 234–240
IN88–2 (Jan. 8, 1988)—pp. 248–264
IN88–3 (Jan. 8, 1988)—pp. 266–275
Minnesota:
MN88–5 (Jan. 8, 1988)—pp. 536–538
Missouri:
MO88–2 (Jan. 8, 1988)—pp. 602–607
Nebraska:
NE88–3 (Jan. 8, 1988)—pp. 678–679
Wisconsin:
WI88–7 (Jan. 8, 1988)—p. 1108

Volume III

Oregon:
OR88–1 (Jan. 8, 1988)—p. 302

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 20th day of April 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88–9926 Filed 5–5–88; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Co. et. al., (Millstone Nuclear Power Station Unit 2); Exemption

I

The Northeast Nuclear Energy Company, et al. (the licensee) is the holder of Facility Operating License No. DPR–65, which authorizes operation of the Millstone Nuclear Power Station, Unit 2 at a steady-state power level not in excess of 2700 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in the town of Waterford, Connecticut. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

On November 18, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G, is the subject of this exemption request. Specifically, Subsection III.G.2.b provides that,

> * * * where cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation due to hot shorts, open circuits, or shorts to ground, of redundant trains of systems necessary to achieve and maintain how shutdown conditions are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:
>
> b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III

By letter dated February 29, 1988, the licensee requested exemption from the requirements of Section III.G.2.b of Appendix R, as these requirements apply to separation of 20-feet, free of intervening combustibles, with fire detection or suppression capabilities, for redundant Auxiliary Feedwater Isolation Valves 2–FW–43A and B. The acceptability of the exemption request is addressed below.

IV

The purpose of Section III.G.2 to Appendix R is to ensure that redundant components of safety system, required to achieve and maintain post-fire hot shutdown, are protected in such a way that at least one such component will remain free of damage which could prevent the completion of the safety function. One such means of protecting these redundant safety components is provided for in Section III.G.b, that is, separate the components by at least 20-feet without intervening combustibles or fire hazards, with a fire detection and suppression capability.

One system for Millstone Unit 2 which is relied upon to achieve and maintain post-fire hot shutdown is the Auxiliary Feedwater System. Valves 2–FW–43A and B are redundant components which provide an isolation/control function. These valves are normally closed and at least one of the two valves is required to open to permit flow of auxiliary feedwater to a steam generator upon loss of normal feedwater. The valves are located on the 14'–07" elevation of the turbine building (Fire Area R–3). The valves and their control cables are separated by less than 20 feet with no fire barriers, fire detection, or fire suppression capability.

The licensee has performed an electrical control analysis of 2–FW–43A and B which indicates that no credible failure, or combination of failures would render both valves inoperable. The identified failure modes either cause the valves to open or render the valves closed but capable of being opened.

We have reviewed the analysis and concur with the conclusion that either 2–FW–43A or B (or both) will open or remain operable in the event of a fire. Accordingly, the protection of 2–FW–43A and B by separation of at least 20-feet, with no intervening combustibles or fire hazards, with a fire detection and suppression capability, is not required. The remaining means of protecting redundant components of safety systems required for achieving and maintaining post-fire hot shutdown,

addressed in Subsection III.G.2 (e.g., fire barriers) for 2–FW–43A and B are similarly unnecessary.

V

Based on the above evaluation, the staff considers the licensee's alternative fire protection configuration to be equivalent to that achieved by conformance with Appendix R to 10 CFR Part 50. Therefore, the licensee's request for exemption from Section III.G.2.b as these requirements relate to separation of valves 2–FW–43A and B by at least 20-feet, with no intervening combustibles or fire hazards, and with a fire detection and suppression capability, is granted.

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a), that: (1) This exemption as described in Section IV is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and (2) special circumstances are present for this exemption in that application of the regulation in this particular circumstance is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Specifically, the underlying purpose of Appendix R, Section III.G.2.b is to assure that a suitable complement of safe-shutdown equipment will be available, post-fire, to achieve and maintain hot shutdown of the reactor. The analysis of valves 2–FW–43A and B indicates that one or both valves will be capable of performing their post-fire shutdown role without additional fire protection enhancements. Therefore, the Commission hereby grants the exemption request identified in Section IV above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (53 FR 13454).

Dated at Rockville, Maryland, this 29th day of April 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–10076 Filed 5–5–88; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Power Plan Amendments; Columbia River Basin Fish and Wildlife Program

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed protected areas amendments to the Columbia River Basin Fish and Wildlife Program and the Northwest Conservation and Electric Power Plan, hearings and opportunity to comment.

SUMMARY: On November 15, 1982, pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Columbia River Basin Fish and Wildlife Program (program). The Council adopted the Northwest Conservation and Electric Power Plan (power plan) on April 27, 1983. The program and the power plan have been amended from time to time since then. Major revisions of the program were adopted in 1984 and 1987, and a major revision of the power plan was adopted in 1986. On April 14, 1988 the Council voted to initiate rulemaking pursuant to section 4(d)(1) of the Northwest Power Act to amend the program and the power plan to incorporate measures to protect critical fish and wildlife habitat from new hydropower development. This notice contains a brief description of the proposed amendments, describes how to obtain a full copy of the proposed amendments and background information concerning them, and explains how to participate in the amendment process.

Public Comment: All written comments must be received in the Council's central office, 851 SW. Sixth Avenue, Suite 1100, Portland, Oregon, 97204, by 5 p.m. Pacific time on July 8, 1988. Comments should be submitted to Dulcy Mahar, Director of Public involvement, at this address. Comments should be clearly marked "Protected Areas Comments."

After the close of written comment, the Council may hold consultations with interested parties to clarify points made in written comment, and will supply notice of such consultations. Consultations may be held up to the time of the Council's final action in this rulemaking.

Hearings: Public hearings will be held in Idaho, Montana, Oregon, and Washington, beginning on or about May 11, 1988. If you wish to obtain a schedule of the hearings, or more information about this process, contact the Council's Public Involvewment Division, 851 SW. Sixth Avenue, Suite 1100, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355 in Idaho, Montana, and Washington or 1–800–452–2324 in Oregon. To reserve a time period for presenting oral comments at a hearing, contact Ruth Curtis in the Public Involvement Division. Requests to reserve a time period for oral comments must be received no later than two work days before the hearing.

Final Action: The Council expects to take final action on the proposed protected areas amendments at its August 1988 meeting. The actual date on which the Council will make its final decision will be announced in accordance with applicable law and the Council's practice of providing notice of its meeting agendas.

FOR FURTHER INFORMATION CONTACT: A fuller version of this notice, including a paper entitled "Protected Areas: Background and Test of Proposed Amendments," has been prepared that explains the reasons for the rulemaking, the process to date, summarizes the proposal itself, responds to certain issues raised in earlier comments, and sets out the text of the proposed amendments. In addition, the Council staff prepared an issue paper in October 1987, entitled "Protected Area Designations," which discusses the background of this issue and identifies alternatives the Council has considered. Those wishing to receive a copy of either paper should contact Judy Allender at the address or telephone numbers listed above.

SUPPLEMENTARY INFORMATION:

1. Reasons for the Rulemaking

Substantial losses of fish and wildlife habitat have occurred in the Columbia River Basin and in the region as a whole as a result of hydroelectric and other development. Past mitigation efforts have not been able to compensate fully for the effects of hydropower and other development. Not only is mitigation risky, it is expensive and time consuming. Protracted disputes over the possible effects of hydroelectric development on sensitive fish and wildlife populations are common. These disputes add to developer costs and utility rates, and leave the region less certain about its ability to develop new resources quickly when they are needed.

2. The Process to Date

The Council initiated a process six years ago to study areas where development would have substantial and irreversible adverse effects on fish and wildlife. Extensive studies of regional fish and wildlife habitat were conducted in the 1984–86 period, and data bases were developed for anadromous fish, resident fish and

wildlife, and hydropower potential in the region. Common criteria were developed and adapted for each of the Northwest states to apply to the data to identify critical fish and wildlife habitat for protection from future hydropower development. Their lists of critical habitat were submitted to the Council.

The Council staff released an issue paper in October 1987, proposing that the Council designate the identified areas for protection from all future hydropower development. About 416 written submissions were received from 400 individuals or organizations. In addition, 8 consultations were held with interested parties, and public comment has been heard at three Council meetings.

3. Protected Areas

This notice outlines a Council proposal, not a final Council decision. The Council will consider all comments before making a final decision. Based on the studies referred to above, the Council has prepared a list of proposed protected areas. In protected areas where anadromous fish (salmon and steelhead trout) and wild resident (non sea-going) fish are present, the Council proposes to say that any development would involve unacceptable risks of irreparable harm to such fish, their spawning grounds or habitat. In protected areas where non-wild resident fish or wildlife are present, the Council proposes to say that no hydropower development should occur that would result in a net loss of such fish and wildlife, considering possibilities for mitigation. A copy of the Council's list of protected areas is available on computer disc or hard copy, free of charge. Please contact Judy Allender at the above address or telephone number for a copy of this list.

4. Effects on Federal Agencies

a. Columbia River Basin Fish and Wildlife Program

The proposed amendments would have their strongest effects through the Columbia River Basin Fish and Wildlife Program. The Council does not itself regulate hydroelectric development through the fish and wildlife program, but influences federal agencies involved in operating, developing and regulating the hydropower system in the Columbia River Basin. Generally, fish and wildlife activities of the Bonneville Power Administration should be "consistent with" the fish and wildlife program and the power plan within the Columbia River Basin. For nonfederal hydroelectric development, the Federal Energy Regulatory Commission (FERC), which makes licensing decisions on particular hydroelectric project proposals, must take the program into account at all relevant stages of its decisionmaking processes "to the fullest extent practicable."

b. Northwest Conservation and Electric Power Plan

The proposed amendments to the Northwest Conservation and Electric Power Plan would guide Bonneville resource acquisitions throughout the Pacific Northwest region, and would not be confined to the Columbia River Basin. As a comprehensive plan that balances regional energy and fish and wildlife needs, the power plan merits the FERC's consideration under the Electric Consumers Protection Act of 1986.

5. Applies Only to New Hydropower Projects

The proposed amendments would apply only to new hydropower projects, not to existing dams. A new hydropower project would be a new structure containing hydroelectric facilities for which FERC has not issued a license.

6. No Effect on State Sovereignty or Water Rights

The Northwest Power Planning Council is not a federal agency, but is an organization of the four Northwest states with special authority to guide and constrain certain federal agencies in the Northwest. The Council's plan and program are addressed to federal agencies involved in developing or regulating hydroelectric projects, not state agencies.

The proposed action would not authorize the appropriation of water by any entity or individual, affect water rights or jurisdiction over water, or alter or establish any water or water-related right. Nor would the amendments alter, amend, repeal, interpret, modify, or conflict with any interstate compact made by the states.

The Council would promptly and carefully consider revising protected areas if any of the states completes a comprehensive, or river basin, or watershed plan, and would acknowledge the strong state interests in resident fish and wildlife.

7. River Miles and Hydropower Development Affected

Region-wide, 40,794 river miles would be affected by the proposed amendments (less than 15% of the region's river miles). The Council estimates that of 327 hydroelectric projects currently proposed or under study in the Pacific Northwest, 202 would be affected, representing 688 average megawatts of energy, and 125 projects representing 800 average megawatts would be unaffected.

8. Amendments to Protected Areas

Under the proposal, protected areas could be amended through four processes: (1) The Council through an expedited amendment process, could remove from the list areas erroneously included on the List because of incorrect data or other technical errors; (2) the Council would promptly initiate amendment proceedings and consider revising Protected Area designations in light of any state comprehensive rivers plans, or state river basin or watershed plans; the Council would recognize the individual states special interest in habitat for resident fish and wildlife; (3) the Council could amend the Protected Areas designations upon completion of its system plan for anadromous fish in the Columbia River Basin; and (4) the Council would accommodate other amendments to protected areas, including consideration of an exception for any hydropower project that is believed to entail exceptional fish and wildlife benefits, through its usual amendments processes.

Edward Sheets,

Executive Director.

[FR Doc. 88-10051 Filed 5-5-88; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25630; File No. SR-AMEX-88-9]

Self-Regulatory Organizations; Filing and Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Expansion of the Use of the AUTO-EX System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 18, 1988 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "Exchange") proposes to expand its automatic execution system ("AUTO–EX") to forty equity options on a pilot program basis until permanent approval is obtained to expand the system to all equity options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to expand the application of its AUTO–EX system to forty equity options on a pilot program basis. AUTO–EX is an automated execution system that enables member firms to route public customer market and marketable limit orders in options for automatic execution at the best bid or offer at the time the order is entered. If the best bid or offer is on the specialist's book, the incoming order is routed to the specialist's post where it is executed against the book order, thus assuring public customers' orders on the book retain priority over orders in the crowd. If the best bid or offer is not on the specialist's book, the contra side of the AUTO–EX trade is assigned on a rotation basis to either one of the AMEX Registered Options Traders ("ROTs") who have signed on the system or to the specialist.

Each specialist in an AUTO–EX eligible option is automatically signed on to the system, while ROTs participate on a voluntary basis. Prior to signing on to the AUTO–EX system, ROTs must sign an agreement with the Exchange undertaking to satisfy the following requirements prior to and during their participation on the system. A ROT:

1. Must be in good standing at the AMEX;

2. Must have the written concurrence of his or her clearing firm to participate on the system;

3. Once signed on the system for a given option class, must remain in the trading crowd for that option. The ROT may, however, sign on to one additional AUTO–EX option class so long as the ROT can be considered in the crowd for both options;

4. May sign on the system at any time during the day, but may only sign off and back on the system one additional time during the day;

5. While signed on the AUTO–EX system in a given option class, may not place orders on the specialist's book for that option; and

6. Must accept Exchange-mandated price adjustments when a trade is automatically executed at an incorrect price.

Since its initial implementation in December 1985, AUTO–EX has been extended to: (i) Full-time use in selected series of Major Market Index ("XMI") options, (ii) use during periods of extremely high order flow in stock options and (iii) use in selected competitively traded stock options.[1] Overall, member firms have been supportive of these various applications of AUTO–EX and the Member Firm Advisory Committee, representing the major wire houses, has urged the Exchange to make AUTO–EX more generally available for stock options.

On October 9, 1987, the Exchange filed a proposal to expand the AUTO–EX system to all equity options on a full-time, permanent basis.[2] While this filing continues to await SEC approval, the Exchange proposes to expand AUTO–EX to forty equity options on a pilot program basis and continue the pilot program until a decision is reached regarding permanent approval to expand the system to all equity options.

The Exchange believes the expansion of the AUTO-EX system to forty equity options and the eventual expansion floorwide is necessary for it to continue to offer the level of service that member firms and their customers require, while remaining competitive with other marketplaces.

The AMEX believes the proposed rule change is therefore consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The AUTO-EX Ad Hoc Committee, a committee of the AMEX Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The AMEX has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act, so that the Exchange can begin using the AUTO-EX system on select equity options while awaiting permanent approval to expand the system to all equity options.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. The Commission believes that the proposed rule change will benefit public customers by affording them a more efficient method of executing small market and marketable limit orders in the forty equity options selected than was previously available at the AMEX. Specifically, the Commission previously has approved, on a pilot basis, the use of AUTO-EX in equity options during emergency or break out situations. The AMEX's experience for these options has been that AUTO-EX's availabily enhances order execution and brings operational efficiencies to the trading post during these emergencies.[3] Extension of the

---

[1] *See* Securities Exchange Act Release No. 23544, dated August 27, 1986, approving SR–AMEX–86–16 for use of AUTO–EX on a permanent basis in XMI options; Securities Exchange Act Release No. 24228, dated March 18, 1987, approving SR–AMEX–87–4 to use AUTO–EX during emergency situations, subsequently extended until June 30, 1988 (see SR–AMEX–88–1); and Securities Exchange Act Release No. 24714, dated July 17, 1987, approving SR–AMEX–87–19 to use AUTO–EX in competitively traded options on a 90-day trail basis, subsequently extended until June 30, 1988 (see SR–AMEX–87–26 and 88–6).

[2] The proposed rule change was noticed in Securities Exchange Act Release No. 25056 (October 23, 1987), 52 FR 42164 (File No. SR–AMEX–87–26).

[3] *See The October 1987 Market Break*. A Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (February 1988).

system to forty options will allow the Commission and the AMEX to monitor in a more comprehensive fashion the operation of AUTO-EX until a final decision on permanent approval is reached.

The Commission understands that the AMEX plans gradually to introduce AUTO-EX to additional equity options and that it does not expect to bring AUTO-EX up in all forty options immediately. The AMEX believes that operation of AUTO-EX in up to forty additional equity options will have no adverse impact on the Exchange's system capacity. In this regard, the AMEX has represented that currently all option orders are routed to the appropriate post through the Exchange's PER/AMOS order routing system, regardless of whether AUTO-EX is available. After arriving at the appropriate specialists post, the order must be executed either automatically, through AUTO-EX, or printed out and executed manually. The use of AUTO-EX will not increase the number of messages being processed through the AMEX's automated order routing systems. Currently, these systems have a capacity to process 18 messages per minute, which is 4½ times the peak one minute message traffic received on an average day and 3½ times the traffic experienced on the business trading day ever experienced at the Exchange.[4]

Finally, the Commission notes that the operation of AUTO–EX in these options will not negatively affect public customer limit orders because these orders will receive the customary limit order protection afforded public customer orders placed on the book.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the Exchange previously has demonstrated the operational efficiencies of AUTO–EX for an extended period. In addition, approval of the proposed rule change will keep the AMEX competitive with other marketplaces with similar automatic execution systems. Moreover, the Commission previously has solicited comments on AUTO–EX on four separate occasions, two of which specifically covered its application to options on individual securities, and has not received any adverse comments on AUTO–EX or its usage in options on individual securities. Finally, the Commission's approval is limited until the AMEX receives permanent approval to expand AUTO–EX to all equity options.

[4] *See*, Letter from Paul Stevens, Executive Vice President, AMEX, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated April 8, 1988.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 says after the date of this publication.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: April 29, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–10074 Filed 5–5–88; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78s(b) (1982).

[6] 17 CFR 200.30–3(a)(12) (1988).

[File No. 22–17935]

Application and Opportunity for Hearing: Citicorp

May 2, 1988.

Notice is hereby given that Citicorp (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of United States Trust Company of New York (the "Bank") under indentures dated as of February 15, 1972 (the "1972 Indenture"), supplemented as of November 15, 1972 (the "November 1972 Supplement") and June 30, 1974 (the "June 1974 Supplement"), March 15, 1977 (the "March 1977 Indenture") supplemented as of July 1, 1977 (the "July 1977 Supplement"), July 15, 1978 (the "July 1978 Supplement"), February 1, 1979 (the "February 1979 Supplement"), April 15, 1980 (the "April 1980 Supplement"), Feburary 1, 1981 (the "February 1981 Supplement"), May 1, 1981 (the "May 1981 Supplement"), August 1, 1981 (the "August 1981 Supplement"), November 1, 1981 (the "November 1981 Supplement"), Feburary 1, 1982 (the "February 1982 Supplement"), Feburary 15, 1982 (the "February 15, 1982 Supplement"), and March 15, 1982 (the "March 1982 Supplement"), August 25, 1977 (the "August 1977 Indenture"), and April 21, 1980 (the "1980 Indenture") between the Company and Bank which were heretofore qualified under the Act, and under a Pooling and Servicing Agreement dated as of September 1, 1987 (the "September Agreement") between Citicorp Mortgage Securities, Inc. ("Citicorp Mortgage") and the Bnak which has not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of these indentures or the September Agreement.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the 1972 Indenture, the Company has issued $650,000,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Notes") under the June 1974 Supplement, of which $74,304,000 are outstanding as of April 1, 1988. The Notes were registered under the Securities Act of 1933 ("1933 Act") and the 1972 Indenture was qualified under the Act.

(2) Pursuant to the March 1977 Indenture, the Company has issued $350,000,000 aggregate principal amount of its 8.45%. Notes Due March 15, 2007. The Company has issued in aggregate

principal amount (i) $250,000,000 of its 8⅛% Notes Due July 1, 2007 under the July 1977 Supplement; (ii) $200,000,000 of its Floating Rate Notes Due 1998 under the July 1978 Supplement; (iii) $500,000,000 of its Floating Rate Notes Due 2004 under the February 1979 Supplement; (iv) $250,000,000 of its Floating Rate Notes Due 2010 under the April 1980 Supplement; and (v) $100,000,000 of its Floating Rate Notes Due March 10, 1989 under the March 1982 Supplement (collectively, the "Notes"). Of these, $1,053,134,000 are outstanding as of April 1, 1988. The Notes were registered under the 1933 Act and the March 1977 Indenture was qualified under the Act.

(3) Pursuant to the August 1977 Indenture, the Company has issued $250,000,000 aggregate principal amount of its Rising-Rate Notes, Series A (the "Notes"), of which none are outstanding as of April 1, 1988. The Notes were registered under the 1933 Act and the August 1977 Indenture was qualified under the Act.

(4) Pursuant to the 1980 Indenture, the Company has outstanding as of April 1, 1988, $7,209,076,953 aggregate principal amount of various series of notes (the "Notes"). The Notes were registered under the 1933 Act and the 1980 Indenture was qualified under the Act. The four indentures are hereinafter called the "Indentures," and the sescurities issued pursuant to the Indentures are hereinafter called the "Notes."

(5) Pursuant to the September Agreement, Citicorp Mortgage Securities, Inc. ("Citicorp Mortgage"), a subsidiary of the Company, issued Mortgage Pass-Through CitiCertificates, Series 1987–17, 9.50% Pass-Through Rate (the "Series 1987–17 Certificates"), which evidence fractional undivided interests in a pool of conventional one-to four-family mortgage loans (the "1987–17 Mortgage Pool") originated by Citibank, N.A. and having adjusted principal balances aggregating $62,504,195.34 at the close of business on September 1, 1987, which mortgage loans were assigned to the Bank as Trustee simultaneously with the issuance of the Series 1987–17 Certificates. On September 18, 1987, the Company entered into a Guaranty of even date (the "1987–17 Guaranty") pursuant to which, for the benefit of the holders of the Series 1987–17 Certificates, it agreed to be liable for 5.50% of the initial aggregate principal balance of the 1987–17 Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1987–17 Guaranty. The Company's obligations under the 1987–17 Guaranty rank *pari passu* with all unsecured and unsubordinated indebtedness of the Company, and accordingly, if enforced against the Company, the 1987–17 Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1987–17 Certificates were registered under the 1933 Act as part of a delayed or continuous offering of $2,000,000 aggregate amount of Mortgage Pass-Through CitiCertificates pursuant to Rule 415 under the 1933 Act. The September Agreement has not been qualified under the Act.

(6) Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(7) The obligations of the Company under the Indentures and the 1987–17 Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*.

(8) Such differences as exist among the Indentures and the respective obligations of the Company under the 1987–17 Guaranty are unlikely to cause any conflict of interest in the trusteeship of the Bank under the Indentures and the September Agreement.

The Company has waived notice of hearing, hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is on file in the Offices of the Commission's Public Reference Section, File Number 22–17935, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested persons may, not later than May 26, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–10122 Filed 5–5–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25632; File No. SR–NASD–87–18]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on April 8, 1987, and amended on March 17, 1988, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder. The proposal eliminates Section B.3 from part IV of Schedule D to the NASD By-Laws, which permitted a refund of issuer fees for securities removed from the NASDAQ System.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 25512, March 25, 1988) and by publication in the **Federal Register** (53 FR 10455, March 31, 1988). No comment letters were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to setion 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: May 2, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–10075 Filed 5–5–88; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

DEPARTMENT OF THE COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Applicable Rate of Interest on Nonqualified Withdrawals From a Captial Construction Fund

Under the authority in section 607(h)(4)(B) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(h)(4)(B)), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawals from a Capital Construction Fund established under section 607 of the Act shall be 8.00 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1987.

The determination of the applicable rate of interest with respect to nonqualified withdrawals was computed, according to the joint regulations issued under the Act (46 CFR 391.7(e)(2)(ii)), by multiplying eight percent by the ratio which: (a) The average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year bears to (b) the average yield on 5-year Treasury securities for the calander year 1970. The applicable rate so determined was computed to the nearest one-hundredth of one percent.

Dated: April 29, 1988.

So Ordered by. Maritime Administrator, Maritime Administration; Administrator, National Oceanic and Atmospheric Administration; Assistant Secretary for Tax Policy, Department of the Treasury.

E.L. Chao,

Maritime Administrator.

J. Curtis Maek, II,

Acting Administrator, National Oceanic and Atmospheric Administration.

O. Donaldson Chapoton,

Assistant Secretary for Tax Policy.

[FR Doc. 88-10009 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF TRANSPORTATION

[Order 88-4-85]

Order Regarding China Airlines, Ltd. the Airline of Taiwan

AGENCY: Department of Transportation.

ACTION: Proposed order to condition the foreign air carrier operations of China Airlines, Ltd.

SUMMARY: The Air Transport Agreement between the American Institute in Taiwan (AIT) and the Coordination Council for North America Affaris (CCNAA), provides, among other things, that the designated airlines of each party may perform their own ground services ("self-handling"). China Airlines Ltd. (CAL), currently self-handles at Los Angeles. Since September 1987, United Air Lines has been trying unsuccessfully to initiate self-handling at Taipei. Taiwanese have created a series of obstacles that have effectively denied United its rights under the agreement. The attached order tentatively finds that it is in the public interest to condition the foreign air carrier operations of CAL. Specifically, the order proposes to prohibit CAL from self-handling at Los Angeles, and would give the Department the authority to determine CAL's ground-handling agent at Los Angeles. The order also proposes to revoke CAL's exemption authority to perform intermodal (air/surface) operations in the United States. The Department tentatively finds that these actions are an appropriate response to Taiwan's withholding of self-handling rights from United, and invites interested parties to file comments on the proposed actions.

DATES: Objections to the Department's proposed actions are due May 6, 1988. Answers are due not later than May 13, 1988. Interested parties may obtain a service copy of the order by calling the Documentary Services Division (202) 366-9327 or by writing to the address below.

ADDRESS: Objections, comments and supporting information should be filed in Docket 45607, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590, and should be served on all parties in Docket 45607.

Dated: April 29, 1988.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-10061 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-88-17]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (4 CFR Part 11) this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions seeking relief from specified requirments of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 26, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA

Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 26, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
13199	American Airlines, Flight Academy	14 CFR 61.63(d) (2) and (3)	To extend Exemption No. 4652 that allows the use of an approved visual similator by American Airlines for applicants for a Cessna 500 (CE-500) type rating who have completed the training course of American Airlines as approved by the FAA pursuant to § 121.424(d).
25576	Normalair-Garrett Limited Product Support Division.	14 CFR 145.71 and 145.73(a)	To allow petitioner, pursuant to the foreign repair station certificate for which it is concurrently applying, to perform warranty and other maintenance work on aircraft components that it manufacturers in aircraft that are registered in the United States without limitation as to where such aircraft operate.
25578	Chromalloy Gas Turbine Corporation and Support Europa, B.V.	14 CFR 145.57(b) and 145.51(d)	To allow petitioners to perform services including inspection, repair, and overhaul of aircraft engine components and parts consistent with its current agency certificate relating to limited specialized services on any U.S.-registered aircraft without geographical limitations and in accordance with their ratings.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
20044	Air Transport Association of America	14 CFR 61.63 (b) and (c) and 121.437(c).	To extend Exemption No. 2965, as amended, to allow pilots employed by Part 121 certificate holders to be issued additional category and class ratings based on successful completion of an approved Part 121 second-in-training program. *Grant, April 18, 1988, Exemption No. 2965E.*
25311	Hamilton Standard Corporation	14 CFR 145.101(b)(4)	To allow petitioner to repair and modify (under the authorization of petitioner's manufacturer's maintenance facility (MMF) certificate No. MMF-NE-40-04) its own products that are shipped direct to users and are of a like-configuration to those shipped via FAA parts manufacturer approval (PMA) authorization. *Denial, April 21, 1988, Exemption No. 4925.*
25403	CCAir, Inc., dba Piedmont Commuter System.	14 CFR 121.371(a) and 121.378	To allow petitioner to purchase goods and servcie from foreign original equipment manufacturers in support of petitioner's British Aerospace, Jetstream Model 3101 and Shorts SD3-60 aircraft. *Grant, April 21, 1988, Exemption No. 4926.*

[FR Doc. 88-10049 Filed 5-5-88; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-88-16]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 26, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. ——— 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 1, 1988.

Denise D. Hall,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
21518	Type Rating Training	14 CFR 61.63(d) and (3) and 61.157(d)(1).	To extend Exemption No. 4683 that allows students of petitioner who are applicants for a type rating to be added to any grade of pilot certificate, in Boeing 727 and 737 and McDonnell Douglas DC-9 and DC-10 airplanes, to complete a portion of that practical test in an airplane simulator
23980	Unites States Hang Gliding Association	14 CFR 91.17 and 103.1(b)	To extend Exemption No. 4144, as amended, that allows petitioner to tow unpowered ultralights with a powered ultralight.
25521	Bellair, Inc	14 CFR 135.203(a)(1)	To allow petitioner to operate under visual flight rules (VFR) outside of controlled airspace, over water and at an altitude between 100-500 feet under certain conditions.
25588	Soaring Society of America, Inc	14 CFR 45.11 (a) and (d) and 45.29(h).	To allow glider operations without external ID plates or owner-affixed external ID information and exemption from the size requirements for registration markings on aircraft penetrating an ADIZ or DEWIZ.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
20049	T.B.M., Inc	14 CFR 91.211(a)(1)	To extend Exemption No. 2956, as amended, that allows petitioner to operate its Douglas DC-6 and DC-7 aircraft without a flight engineer during flightcrew training, ferry, and test flights conducted in preparation for firefighting operations under Part 137. *Grant, April 25, 1988, Exemption No. 2956E*
24041	Butler Aircraft Co	14 CFR 91.211(a)(1)	To extend Exemption No. 2989, as amended, that allows petitioner to operate its Douglas DC-6 and DC-7 aircraft without a flight engineer during flightcrew training, ferry, and test flights conducted in preparation for firefighting operations under Part 137. *Grant, April 25, 1988, Exemption No. 2989D.*

[FR Doc. 88-10050 Filed 5-5-88; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 162 (5th Mtg.), Aviation System Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of RTCA Special Committee 162 on Aviation System Design Guidelines for Open Systems Interconnection (OSI) to be held on June 1-3, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory remarks, (2) Approval of the fourth meeting's minutes, (3) Reports on Working Groups' Activities, (4) Reports of Related Activities Being Conducted by Other Organizations, (5) Working Groups Meet in Separate Sessions, (6) Develop Committee Report Content List, (7) Develop a List of Questions to be Answered, (8) Assignment of Tasks, (9) Other Business, and (10) Time and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 25, 1988.

R.E. Reichenbach,

Acting Designated Officer.

[FR Doc. 88-10048 Filed 5-5-88; 8:45 am]
BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-828]

Apex Resources, Inc., et al.; Notice of Application To Effect Proposed Sale of Certain Vessels and Proposed Assignment of ODSAs

In the matter of Apex Resources, Inc., American Shipping, Inc., and Aeron Marine Shipping Company.

Certain partnerships and companies in which Apex Resources, Inc. and its subsidiaries (collectively Apex) have an interest propose to sell to Liberty Shipping Group (Liberty) four U.S.-flag vessels—ARCHON, ALTAIR, ASPEN, and ARION (the Vessels)—and to assign to Liberty the contractor's rights under two related ODSAs—ODSA Contract MA/MSB-166(a) with Aeron Marine Shipping Company (Aeron) for which no ship is currently named, and ODSA Contract MA/MSB-272 with American Shipping Inc. for which the BEAVER STATE is named.

An addendum to Contract MA/MSB-166(a) proposed in early 1987 by the Maritime Administration and not yet accepted by Aeron would have placed the ARCHON under MA/MSB-166(a). In addition, certain partners in partnerships which own the vessels AURORA and BEAVER STATE propose to sell their partnership interests to Liberty. Liberty will be formed as a partnership which will be controlled by Schnitzer Investment Corp. (SIC), currently a subsidiary of Schnitzner Steel Products Co. The partners in Liberty will be SIC and Philip J. Shapiro or an entity to be formed by him.

Apex requests the following approvals and determinations under the Merchant Marine Act, 1936, as amended (Act), in connection with the sale to Liberty of the Vessels and the ODSAs:

(1) Under Title VI (a) approval pursuant to section 608 to transfer to Liberty the contractors' rights under the

ODSAs; (b) approval for Liberty to operate any of the Vessels pursuant to either of the ODSAs for a maximum of 730 total voyage days in any one calendar year under a sharing system; (c) confirmation that the Vessels may continue carrying, without operating-differential subsidy (ODS), cargoes subject to the cargo preference statutes of the United States without restriction; and (d) approval, to the extent necessary, to transfer to Liberty the rights arising from the prior approvals applicable to the Vessels granted pursuant to section 615.

(2) Under section 804(a) a determination that foreign-flag bulk vessels owned by companies which may be related to Liberty do not compete "with any American-flag service determined * * * to be essential" within the meaning of section 804(a); or alternatively (b) if it is determined that such foreign-flag operators compete with an essential U.S.-flag service within the meaning of section 804(a), a waiver for special circumstances and good cause shown pursuant to section 804(b) to permit Liberty to receive ODS with respect to the operation of any of the Vessels in the U.S. foreign and foreign-to-foreign commercial trades during the remaining terms of the ODSAs.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room 7300 Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Any person, firm, or corporation having any interest in such application and desiring to submit comments thereon must file comments in triplicate with the Secretary, Maritime Administration by close of business on May 20, 1988. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider such comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies).

By Order of the Maritime Administrator.

Date: April 4, 1988.

James E. Saari,

Secretary.

[FR Doc. 88-10178 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Proceeding to Determine Noncompliance by Mercedes-Benz of North America With Fuel Economy Standard

Pursuant to section 508 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2008 ("the Act"), and 49 CFR 511.11, the National Highway Traffic Safety Administration (NHTSA) has on April 28, 1988, issued a complaint, instituting a proceeding against Mercedes-Benz of North America ("Mercedes") to enforce a corporate average fuel economy standard.

The complaint, filed with the Docket Section, Office of the Secretary, Department of Transportation, alleges that Mercedes failed to comply with the corporate average fuel economy standard applicable to it under section 502 of the Act (15 U.S.C. 2002) for passenger cars which Mercedes imported during model year 1985, and that Mercedes' failure to comply with unlawful conduct within the meaning of section 507(a) of the Act. 15 U.S.C. 2007(a). In the complaint, Complaint Counsel requests a determination that Mercedes committed the aforementioned violation of the Act and is liable for a civil penalty of $5,509,400.00.

The filing of the complaint has commenced an adjudicative proceeding conducted pursuant to section 508(a)(2) of the Act (15 U.S.C. 2008(a)(2)), and 49 CFR Part 511. Mercedes has the right to file an answer and to request a hearing within twenty days after the filing of the complaint. In the event that Mercedes disputes the allegations in the complaint, an Administrative Law Judge will be appointed by the Chief Administrative Law Judge of the Office of Hearings, Department of Transportation, to act as Presiding Officer at the hearing and to render an initial decision in the case. Pursuant to 49 CFR 511.11, any interested person who desires to participate in the proceeding as a party should file a notice of intention to participate no later than the first prehearing conference. Pursuant to 49 CFR 511.17, any interested person who wishes to participate in the hearing as a non-party "participant" should file a notice of intention to participate no later than the commencement of the hearing. The rights of parties and non-party participants are delineated at 49 CFR 511.41.

Notice of intention to participate should be filed by hand delivery or mail addressed to Docket Section, Office of the Secretary, Room 4107, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

A public docket has been established for this proceeding, and is available for inspection during regular working hours (9:00 a.m.–5:00 p.m.) Monday through Friday, in the Docket Section, Room 4107, 400 Seventh Street SW., Washington, DC 20590. The docket number is 45610.

The Assistant Chief Counsel for Litigation of NHTSA has been delegated the authority to determine the legal sufficiency of the NHTSA investigation of alleged violations of the corporate average fuel economy standard for model year 1985 passenger cars by Mercedes, to sigh and issue the complaint described above and to act as the Complaint Counsel in an adjudicative proceeding under 49 CFR Part 511. The Assistant Chief Counsel has been directed to consult with the Associate Administrator for Enforcement with respect to the exercise of this authority.

This notice also establishes a separation of functions among offices and employees of the NHTSA who participate in the prosecution or decision-making of the adjudicative proceeding that has been commenced by the above described complaint. Section 511.78 of Part 511 prohibits *ex parte* communications regarding the merits of the proceeding between parties to the proceeding or their representatives and the decision-maker, including in addition to the Presiding Officer, the Administrator and those NHTSA employees who advise the Administrator regarding the decision in the adjudicative proceeding. In order to help ensure compliance with this prohibition, there shall be a separation of functions as follows.

For purposes of the proceeding, the Administrator shall be advised by the Deputy Administrator, the Chief Counsel, the Assistant Chief Counsel for Rulemaking, the attorneys assigned to the Rulemaking Division of the Office of Chief Counsel who are specifically assigned to participate in the proceeding, the Associate Administrator for Rulemaking, the Director and staff members of the Office of Market Incentives who are specifically assigned to participate in the proceeding and

support staffs who ordinarily assist these officers and employees. These employees shall be on the "decision-maker" side of the agency for purposes of Part 511, and shall not discuss the merits of the proceeding with agency staff on the "prosecution" side of the agency.

The "prosecution" side of the agency for purposes of Part 511 shall include the Associate Administrator for Enforcement, the staff members of the Office of Vehicle Safety Compliance who are specifically assigned to participate in the proceeding, the Assistant Chief Counsel for Litigation, the attorneys assigned to the Litigation Division of the Office of Chief Counsel who are specifically assigned to participate in the proceeding and support staffs who normally assist these officers and employees. None of the NHTSA employees involved in the prosecution of the proceeding shall make any oral or written *ex parte* communications relative to the merits of that proceeding with any NHTSA employees on the decision-making side of the proceeding.

The Complaint Counsel or the Chief Counsel may find it necessary to seek advice regarding the proceeding from agency employees not identified above. The Managing Director of the National Highway Traffic Safety Administration has been delegated the authority to decide, on a case-by-case basis, whether such agency employees may assist the decision-making or prosecution side. Any such employees who provide assistance to either side become members of that side for the duration of the proceeding and remain subject to the restrictions on *ex parte* communications stated herein.

Prior to the first prehearing conference, the Complaint Counsel shall file with the Docket Section, Office of the Secretary of Transportation, lists of agency employees specifically assigned to participate in this proceeding on the prosecution side, and the Chief Counsel shall file a list of agency employees specifically assigned to participate in the proceeding on the decision-making side. Amendments to these lists shall be filed as needed.

Authority: 5 U.S.C. 554–557, 15 U.S.C. 2008, 49 CFR Part 511; delegations of authority at 49 CFR 1.45(b), 1.50(f), 501.8.

Issued on May 3, 1988.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 88–10088 Filed 5–3–88; 3:03 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 29, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0166
Form Number: 4255
Type of Review: Revision
Title: Recapture of Investment Credit
Description: Internal Revenue Code section 47 and Regulations section 1.47 require that taxpayers attach a statement to their return showing the computation of the recapture tax when investment credit property is disposed of before the end of the useful life or recovery period used in the original computation of the investment credit.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 114,414 hours

OMB Number: 1545–0351
Form Number: 3975, 3975A, 3975B, 3975C, 3975G, 3975H, 3975I, 3975J and 3975K
Type of Review: Revision
Title: Tax Practitioners Mailing File (TPMF)
Description: Form 3975 Series allows practitioners a systematic way to remain on the mailing file (TPMF) and to order information copies of tax forms materials.
Respondents: Businesses or other for-profit
Estimated Burden: 27,425 hours

OMB Number: 1545–0941
Form Number: 8308
Type of Review: Extension
Title: Report of a Sale or Exchange of Certain Partnership Interests
Description: Form 8308 is an information return that gives the IRS the names of the parties involved in a section 751(a) exchange of a partnership interest. It is also used by the partnership as a statement to the transferor or transferee. It alerts the transferor that a portion of the gain on the sale of a partnership interest may be ordinary income.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 60,134 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88–10085 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series No. 10–88]

Treasury Notes; Series Z–1990

Washington, April 28, 1988.

The Secretary announced on April 27, 1988, that the interest rate on the notes designated Series Z–1990, described in Department Circular—Public Debt Series—No. 10–88 dated April 21, 1988, will be 7⅝ percent. Interest on the notes will be payable at the rate of 7⅝ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 88–10066 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–40–M

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 22]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; American Indemnity Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Indemnity Company, of Galveston, Texas, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 52 FR 24605, July 1, 1987.

With respect to any bonds currently in force with American Indemnity Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In

addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 29, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 88–10055 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1987 Rev., Supp. No. 21]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; American Mutual Liability Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Mutual Liability Insurance Company, of Wakefield, Massachusetts, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 52 FR 24605, July 1, 1987.

With respect to any bonds currently in force with American Mutual Liability Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20027, telephone (202) 287–3921.

Dated: April 29, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 88–10056 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1987 Rev., Supp. No. 23]

Surety Companies Acceptable on Federal Bonds; the American Road Insurance Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1987 Revision, on page 24605 to reflect this addition.

THE AMERICAN ROAD INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 1736, Dearborn, MI. 48121. UNDERWRITING LIMITATION [b]: *$31,744, 000. SURETY LICENSES* [c]: All. INCORPORATED IN: Michigan. FEDERAL PROCESS AGENTS [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 29, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 88–10058 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1987 Rev., Supp. No. 19]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; Fremont Indemnity Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Fremont Indemnity Company, of Los Angeles, California, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 52 FR 24612, July 1, 1987.

With respect to any bonds currently in force with Fremont Indemnity Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 29, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 88–10057 Filed 5–5–88; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1987 Rev., Supp. No. 20]

Surety Companies Acceptable on Federal Bonds; General Accident Insurance Co. (Puerto Rico) Ltd.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1987 Revision, on page 24612 to reflect this addition:

GENERAL ACCIDENT INSURANCE COMPANY (PUERTO RICO) LIMITED.

BUSINESS ADDRESS: G.P.O. 3786, San Juan, Puerto Rico 00936.

UNDERWRITING LIMITATION [b]: *$725,000.*

SURETY LICENSES [c]: PR, and VI.

INCORPORATED IN: Puerto Rico.

FEDERAL PROCESS AGENTS [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287–3921.

Dated: April 29, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 88–10059 Filed 5–25–88; 8:45 am]

BILLING CODE 4810–35–M

United States Sentencing Commission

Sentencing Guidelines for United States Courts; Correction

AGENCY: United States Sentencing Commission.

ACTION: Correction.

SUMMARY: In Notice Document 88–9490 beginning on page 15530 in the issue of Friday, April 29, 1988, text was inadvertently omitted. This document corrects that omission. On page 15533, in the third column in § 2F1.1, additional text is added to precede the current first paragraph. This additional text reads as follows:

Section 2F1.1(b)(1) is amended by deleting "estimated, probable, or intended."

The Commentary to § 2F1.1 captioned "Application Notes" is amended in Note 7 by inserting as the first sentence the following: "Valuation of loss is discussed in the Commentary to § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft)."

The purpose of this amendment is to clarify the guideline in respect to the determination of loss. The effective date of this amendment is June 15, 1988.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director for the Commission, telephone (202) 662–8800.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 88–10113 Filed 5–5–88; 8:45 am]

BILLING CODE 2210–40–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting Wednesday, May 11, 1988, 11:00 a.m. (Time approximate—meeting will begin immediately after the Public Hearing on Priorities for FY 1990.)

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY90 Priorities Projects

The staff will brief the Commission on recommendations for priority projects for fiscal year 1990.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88–10232 Filed 5–4–88; 3:24 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURNACE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:20 p.m. on Tuesday, May 3, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (i) matters relating to the possible closing of a certain insured bank, and (ii) matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L.Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consdieration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: May 4, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88–10175 Filed 5–4–88; 11:55 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., May 11, 1988.

PLACE: Hearing Room I, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Agreement No. 203–011171—Trans Freight Lines/Nedlloyd/Sea-Land Cooperative Working Agreement.
2. Trans-Atlantic Amnesty Agreement and Modification of the U.S. Atlantic-North Europe Conference Agreement.
3. Docket No. 87–6—Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Peru Trade—Comments on Reconsideration.
4. Docket No. 87–14—Banfi Products Corporation Possible Violations of section 16, Initial Paragraph, Shipping Act of 1916 and section 10(a)(1) of the Shipping Act of 1984—Motion to Amend Order of Investigation.
5. Docket No. 87–18—Matson Navigation Company, Inc.,—Transportation of Cargoes Between Ports and Points Outside Hawaii and Islands Within the State of Hawaii—Consideration of the Record.
6. Section 15 Order Responses: Practices Affecting Shipping in the United States/Taiwan Trade.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary. (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 88–10171 Filed 5–4–88; 11:23 am]

BILLING CODE 6730–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 20, 1988.

TIME AND DATE: 10:00 a.m., Thursday, April 21, 1988.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will consider and act upon the following:

2. *Arnold Sharp v. Big Elk Creek Coal Co.*, Docket No. KENT 86–149–D.

It was determined by a unanimous vote of Commissioners that this item be included in the meeting and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/ (202) 566–2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88–10140 Filed 5–4–88; 9:56 am]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, May 11, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals to implement the Expedited Funds Availability Act to provide availability for deposits within specified time periods and to improve the check return system. (Proposed earlier for public comment; Docket Nos. 0620 and 0621).
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: May 4, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10165 Filed 5-4-88; 10:48 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 12:00 noon, Wednesday, May 11, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before the meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 4, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10166 Filed 5-4-88; 10:48 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 53, No. 88
Friday, May 6, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

Correction

In notice document 88-9496 appearing on page 15333 in the issue of Thursday, April 28, 1988, make the following correction:

In the first column, in the third document, under "**TIME AND DATE**", May 13, 1988" should read "May 20, 1988".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-20-NG]

Application to Import Natural Gas From Canada and Mexico; Amalgamated Pipeline Co.

Correction

In notice document 88-9388 beginning on page 15274 in the issue of Thursday, April 28, 1988, the docket number should read as it appears in the bracketed heading above.

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-41]

Intent To Prepare an Environmental Impact Statement (EIS); Advanced Solid Rocket Motor (ASRM)

Correction

In notice document 88-9217 beginning on page 15157 in the issue of Wednesday, April 27, 1988, make the following corrections:

1. On page 15157, in the second column, under **ACTION**, in the third line, "developing" should read "development".

2. On page 15158, in the first column, in the first complete paragraph, in the 12th line, after "Phase C/D" insert "SEB".

3. On the same page, in the second column, in paragraph (f), "infrastructure" was misspelled.

4. On the same page, in the same column, in the 10th complete paragraph, in the fourth line, "REF" should read "RFP".

5. On the same page, in the third column, in the first complete paragraph, in the seventh line, "preferred" was misspelled.

6. On the same page, in the same column, in the third complete paragraph, in the fourth line, "affecting" should read "affected"; and in the last line, after "production" insert "facility".

7. On the same page, in the same column, in the last paragraph, in the last line, "identification" was misspelled.

8. On page 15159, in the first column, under **DATE**, in the fourth line, "of" should read "or".

BILLING CODE 1505-01-D

Federal Register

Friday
May 6, 1988

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is revising the regulations governing the conduct of the annual Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest. The amendments include the following changes: (1) Deadline date moved up from October 1 to September 15; (2) Provides for a procedure for judging a tie vote for first, second, and third place; (3) Identifies forty two species from which five are eligible in any given year. The dates and location of this year's contest are also announced, and the public is invited to attend.

DATES: 1. This rule is effective July 1, 1988, the beginning of the 1988–1989 contest.

2. This year's contest will be held on November 7 and 8, 1988, beginning at 11 a.m. on Monday and 9 a.m. on Tuesday.

3. Persons wishing to enter this year's contest may submit entries anytime after July 1, but all must be postmarked no later than midnight September 15.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights and display agreements should be addressed to: Migratory Bird Hunting and Conservation Stamp Contest, Department of the Interior, U.S. Fish and Wildlife Service, Room 7349, Washington, DC 20240.

Location of Contest: Department of the Interior Building Auditorium (C Street Entrance), 1800 C Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Opgrand, Coordinator, Federal Duck Stamp Program, U.S. Fish and Wildlife Service, Room 7349, Washington, DC 20240, Telephone: (202) 343–5508.

SUPPLEMENTARY INFORMATION: Analysis of these revisions to 50 CFR Part 91 has resulted in the Department's determining that they are not major actions under the provisions of Executive Order 12291. The revisions also will not significantly affect a substantial number of small entities under the provisions of the Regulatory Flexibility Act, since entrants are individuals and not small entities as defined in 5 U.S.C. 601 *et seq.* The revisions do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* No compliance with the National Environmental Policy Act is required because this rule constitutes minor changes or revisions to an approved action (the Duck Stamp Contest), that have no potential for causing substantial environmental impact.

Analysis of Public Comment

Approximately 900 copies of the proposed regulations (53 FR 6938) were mailed to artists, art dealers and publishers, the press and the general public.

Thirty-six comments were received addressing the three proposed changes in the regulations of the Migratory Bird Hunting and Conservation Stamp Contest. The three proposed changes were: (1) to change the deadline date from October 1 to September 15; (2) to establish procedures for judging a tie vote for second and third place; and (3) to limit the number of eligible species to five.

Nineteen people favored changing the contest deadline to September 15, two people were opposed to the change, and 16 people made no comment regarding the contest deadline. Those that favored the change stated that the deadline date was unimportant, that work seems to fit the time allotted for it, but that it would be helpful to have the regulations sent to the artists as early as possible. Of the two people opposing the deadline change, one gave no reason and the other simply stated that he preferred the October 1 deadline.

Nineteen people supported establishing a procedure for judging tie votes for second and third place, two people opposed the change, and 15 people made no comment regarding the tie vote procedure. Those that favored the change stated it was a housekeeping change and that the reasons cited in the press release seemed reasonable and fair. One individual who opposed the establishment of this saw no purpose in a tie breaker procedure, and another person didn't provide a reason for opposing.

Twenty people favored limiting the eligible species to five, seven opposed the change and nine made no comment. Although many people did not give their reasons for supporting the change to five eligible species, one comment was of particular interest. "Eligible species changes gave me pause at first. I have my favorites and push them. Then I realized that my attitude did not push me. You are giving me a choice—there are five to choose from—and you are asking me to stretch myself—better for both of us, but particularly for the artist; very good idea. Thanks for asking." The main concern of the seven individuals opposed to limiting the species was that artists living in certain areas of the country would have difficulty obtaining live references for their designs. In establishing the eligible species each year, the U.S. Fish and Wildlife Service will make every effort to include one species from each of the flyways, with intent to minimize difficulty in locating live reference material.

Other comments that were received that did not deal with the changes but addressed other aspects of the contest and the regulations included:

(1) Regulations should be sent to the artists much earlier than in previous years—could be included when artwork is returned from current contest.

(2) Change the contest eligibility to include other wildlife species besides ducks, geese, and swans.

(3) Prohibit artists who have won the competition from entering again.

(4) Increase the entry fee to $100.00.

(5) Keep the entry fee at $50.00 for several years.

(6) Thank you from several for the opportunity to comment.

(7) Allow a vertical design.

The comments listed above will be given consideration in future changes of the Duck Stamp contest regulations.

The primary authors of this document are David Fisher, James E. Pinkerton, and Norma E. Opgrand, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 91

Hunting, Wildlife.

Accordingly, 50 CFR Part 91 is revised to read as follows:

PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Subpart A—Introduction

Subpart B—Procedures for Entering the Contest

Authority: 5 U.S.C. 301; 31 U.S.C. 9701.

Subpart A—Introduction

§ 91.1 Purpose of regulations.

(a) The purpose of these regulations is to establish procedures for selecting a design that will be used for the annual Migratory Bird Hunting and Conservation Stamp.

(b) All individuals entering the contest must comply with these regulations, a copy of which (along with the reproduction rights and display agreements) may be requested from the Migratory Bird Hunting and Conservation Stamp Office (Duck Stamp Office), U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

(c) All contestants from the immediately preceding contest will be sent a copy of the regulations, the display agreement, and the reproduction rights agreement.

§ 91.2 Definitions.

Contest Coordinator—the contest official responsible for overseeing the judges' scores for each entry. The contest coordinator will be named by the Secretary of the Interior and will not be a past or present employee of the Fish and Wildlife Service.

Display agreement—a document that each contestant must complete, sign and submit with the entry. The signed agreement permits the Service to display the entry for the Migratory Bird Hunting and Conservation Stamp for promotional purposes.

Qualifying entry—each original work of art submitted to the contest that satisfies the requirements outlined in Subpart B.

Reproduction rights agreement—a document that each contestant must sign and submit with the entry. The signed agreement certifies that the entry is an original work of art and stipulates how the Fish and Wildlife Service may use the winning entry.

§ 91.3 Public attendance at contest.

All phases of the voting process will be open for viewing by the general public.

§ 91.4 Eligible species.

Five of the below listed species will be identified as eligible each year; those eligible species will be provided to each contestant with the information provided in § 91.1.

(a) *Whistling-Ducks.* (1) Fulvous Whistling-Duck (Dendrocygna bicolor)
(2) Black-bellied Whistling-Duck (Dendrocygna autumnalis)
(b) *Swans.* (1) Trumpeter Swan (Cygnus buccinator)
(2) Tundra Swan (Cygnus columbianus)
(c) *Geese.* (1) Greater White-fronted Goose (Anser albifrons)
(2) Snow Goose (including bluephase) (Chen caerulescens)
(3) Ross' Goose (Chen rossii)
(4) Emperor Goose (Chen canagica)
(5) Canada Goose (Branta canadensis)
(d) *Brant.* (1) Brant (Branta bernicla)
(e) *Dabbling Ducks.* (1) Wood Duck (Aix sponsa)
(2) American Widgeon (Anas americana)
(3) Gadwall (Anas strepera)
(4) Green-winged Teal (Anas crecca)
(5) Mallard (Anas platyrhynchos)
(6) Mottled Duck (Anas fulvigula)
(7) American Black Duck (Anas rubripes)
(8) Northern Pintail (Anas acuta)
(9) Blue-winged Teal (Anas discors)
(10) Cinnamon Teal (Anas cyanoptera)
(11) Northern Shoveler (Anas clypeata)
(f) *Diving Ducks.* (1) Canvasback (Aythya valisineria)
(2) Redhead (Aythya americana)
(3) Ring-necked Duck (Aythya collaris)
(4) Greater Scaup (Aythya marila)
(5) Lesser Scaup (Aythya affinis)
(g) *Sea-Ducks.* (1) Common Eider (Somateria mollissima)
(2) King Eider (Somateria spectabilis)
(3) Spectacled Eider (Somateria fischeri)
(4) Steller's Eider (Polysticta stelleri)
(5) Harlequin Duck (Histrionicus histrionicus)
(6) Oldsquaw (Clangula hyemalis)
(7) Black Scoter (Melanitta nigra)
(8) Surf Scoter (Melanitta perspicillata)
(9) White-winged Scoter (Melanitta fusca)
(10) Bufflehead (Bucephala albeola)
(11) Barrow's Goldeneye (Bucephala islandica)
(12) Common Goldeneye (Bucephala clangula)
(h) *Mergansers.* (1) Hooded Mergansers (Lophodytes cucullatus)
(2) Red-breasted Merganser (Mergus serrator)
(3) Common Merganser (Mergus merganser)
(i) *Stiff Tails.* (1) Ruddy Duck (Oxyura jamaicensis)

Subpart B—Procedures for Entering the Contest

§ 91.11 Contest deadlines.

(a) The contest will officially open on July 1 of each year.

(b) Entries must be postmarked no later than midnight of September 15.

§ 91.12 Contest eligibility.

United States citizens, nationals, or resident aliens are eligible to participate in the contest. Any person who has won the contest during the preceding three years shall be ineligible to submit an entry in the current year's contest. Contest judges and their relatives are ineligible to submit an entry. All entrants must submit a non-refundable fee of $50.00 by a cashier's check, certified check, or money order made payable to: Fish and Wildlife Service. (Personal checks will not be accepted). All entrants must submit signed reproduction rights and display agreements.

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting seven (7) inches high and ten (10) inches wide. The entry may be drawn in any medium desired by the contestant and may be in either multicolor or black and white. No scrollwork, lettering, bird band numbers, signatures or initials may appear on the design. Each entry must be matted (over or under) with a nine (9) inch by twelve (12) inch white mat, one (1) inch wide, and cannot exceed one quarter (¼) inch in total thickness. Entries must not be framed, under glass, or have a protective covering that is attached to the entry.

§ 91.14 Restrictions on subject matter of entry.

A live portrayal of any bird(s) of the five identified eligible species must be the dominant feature of the design. The design may depict more than one of the eligible species. The design must be the contestant's original creation and may not be copied or duplicated from previously published art, including photographs. An entry submitted in a prior contest that was not selected for the Federal or a state stamp design may be submitted in the current contest if it meets the above criteria.

§ 91.15 Suitability of entry for engraving.

All entries should be drawn with fullest attention to clarity of detail and the relationship of tonal values. These prerequisites are important to interpret pictorial elements to hand engraving for printing, as they determine the engraved line techniques and direction. The

engraver relies on the accuracy of the artist's work for successful interpretation. An entry that is a line pencil drawing, scratchboard, or an etching should effectively interpret the full range of tone, rather than duplicate line engraving techniques of past Migratory Bird Hunting and Conservation Stamps. The engraver is primarily responsible for line interpretation and discipline, creating the miniature image of the stamp.

§ 91.16 Submission procedures for entry.

(a) Each contestant may submit only one entry. Each entry must be accompanied by a non-refundable entrance fee and a completed and signed Reproduction Rights Agreement and a completed and signed Display Agreement. The bottom portion of the Reproduction Rights Agreement must be attached to the back of the entry.

(b) Each entry should be appropriately wrapped to protect the art work and sent by registered mail or hand delivered to: Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Room 7049, Department of the Interior, Washington, DC 20240.

§ 91.17 Property insurance for entries.

Each contestant is responsible for obtaining adequate insurance coverage for his/her entry. The Department of the Interior will not insure the entries it receives. The Department of the Interior is not responsible for loss or damage unless it is caused by its negligence or willful misconduct; in any event, the liability of the Department of the Interior will not exceed the amount of the fifty dollar ($50.00) entry fee.

§ 91.18 Failure to comply with contest regulations.

Any entry that does not comply with the requirements of Subpart B will be disqualified from the contest.

Subpart C—Procedures for Administering the Contest

§ 91.21 Selection and qualification of contest judges.

Judges will be selected annually by the Secretary of the Interior. Current employees of the Fish and Wildlife Service and their relatives are ineligible to serve as judges for the contest. The judges will be reimbursed for reasonable travel expenses. The judges will be announced on the first day of the contest.

§ 91.22 Display of entries for contest.

All eligible entries will be displayed in the Department of the Interior auditorium in numerical order. The only visible identification on each entry will be the number assigned to it in chronological order when it is received and processed by the Service.

§ 91.23 Scoring criteria for contest.

Entries will be judged on the basis of anatomical accuracy, artistic composition and suitability for engraving in the production of a stamp.

§ 91.24 Contest procedures.

(a) The day before the judging begins, the judges will be briefed on all aspects of the judging procedures and other details of the competition, and will preview all eligible artwork entered.

(b) Prior to the first round of judging, the judges will spend an additional two hours in the auditorium reviewing the entries the first day before the official contest is open to the public.

(c) All qualified entries will be shown one at a time to the judges by the Contest Coordinator or a contest staff member. The judges will vote "in" or "out" on each entry; those entries receiving a majority of votes "in" will be eligible for the second round of judging. The remaining entries will be placed on display as a group for public viewing.

(d) Prior to the second round of judging, each judge may select not more than five entries from those eliminated in the first round. Those additional entries selected by the judges will be eligible to be judged in the second round.

(e) Prior to the second round of judging, the entries selected by the judges under the procedures of paragraphs (c) and (d) of this section will be displayed in numerical order in the front of the auditorium.

(f) In the second round of judging, each entry selected in the first round, plus the additional entries selected by judges, will be shown one at a time to the judges by the Contest Coordinator or a contest staff member. The judges will vote by indicating a numerical score from one to nine for each entry. One highest and one lowest score for each entry will be eliminated and the remaining scores will be totaled to provide the entry score. The entries receiving the five highest scores will be advanced to the third and final round.

(g) In the third round of judging, the judges will vote on the remaining entries using the same method as in round two. The Contest Coordinator will tabulate the final votes and present them to the Director, U.S. Fish and Wildlife Service, who will announce the winning entry as well as the entries that placed second and third.

(h) In case of a tie vote for first, second, or third place in the final round, the judges will vote again on the entries that are tied. The judges will vote using the same method as in rounds two and three.

(i) The selection of the winning entry by the judges will be final. Each contestant will be notified of the winning artist and the design. The winning artist will receive a pane of Duck Stamps signed by the Secretary of the Interior at the Duck Stamp Contest the following year. The artists placing first, second, and third will receive a framed commendation from the Director of the U.S. Fish and Wildlife Service.

Subpart D—Post-Contest Procedures

§ 91.31 Return of entries after contest.

All entries will be returned by certified mail to the participating artists within 120 days after the contest. If artwork is returned to the Service because it is undelivered or unclaimed (this may happen if an artist changes address), the Service will not be obligated to trace the location of the artist to return the artwork. Any artist who changes his or her address is responsible for notifying the Service of the change. All unclaimed entries will be destroyed one year from the date of the contest.

Date: April 14, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-10037 Filed 5-5-88; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
May 6, 1988

Part III

Environmental Protection Agency

40 CFR Parts 141 and 142

National Primary Drinking Water Regulations; Filtration and Disinfection; Turbidity, Giardia lamblia, Viruses, Legionella, and Heterotrophic Bacteria; Total Coliforms; Notice of Availability; Close of Public Comment Period; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL-3375-7]

National Primary Drinking Water Regulations; Filtration and Disinfection; Turbidity, Giardia lamblia, Viruses, Legionella, and Heterotrophic Bacteria; Total Coliforms

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; close of public comment period.

SUMMARY: On November 3, 1987, EPA proposed surface water treatment requirements and a national primary drinking water regulation for total coliforms, plus maximum contaminant level goals for certain microbiological contaminants under the Safe Drinking Water Act (52 FR 42178 and 52 FR 42224). In today's notice, EPA is soliciting specific data, offering additional regulatory options for comment, and clarifying and correcting statements made in the November 3, 1987, proposals. In general, these options would increase the States' latitude in applying the proposed filtration criteria and certain other proposed requirements to account for site-specific considerations. The public comment period on the November 3, 1987, proposals and today's notice will close on July 5, 1988.

DATES: The public comment period on the November 3, 1987, proposals and today's notice closes July 5, 1988.

Another public hearing on these two proposed rules will be held on June 27, 1988, from 9:00 am to 4:00 pm in North Conference Room #3, at the Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

ADDRESSES: Send written comments on the November 3, 1987, proposed rules and today's notice to Surface Water Treatment Requirements Comment Clerk, or Coliforms Comment Clerk, as appropriate, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy of the comments and supporting documents will be available for review at the EPA Drinking Water Docket, 401 M Street SW., Washington, DC 20460. For access to the docket materials, call (202) 382-3027 between 9:00 am and 3:30 pm.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791, or (202) 382-5533 in the Washington, DC, metropolitan area, or Stig Regli (surface water treatment requirements) or Paul S. Berger, Ph.D. (total coliforms), Science and Technology Branch, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382-7379 or 382-3039. If you plan to attend the public hearing, contact Marlene Regelski, EPA (WH-550D), 401 M Street SW., Washington, DC 20460, telephone (202) 382-3639, at least two weeks before the hearing date.

SUPPLEMENTARY INFORMATION:

I. Background

As required by the 1986 amendments to the Safe Drinking Water Act, EPA published two proposed rules on November 3, 1987; these rules would regulate turbidity, *Giardia lamblia*, viruses, *Legionella*, heterotrophic bacteria, and total coliforms; establish criteria by which States would determine which public water systems using surface water must practice filtration; and establish disinfection requirements for all public water systems using surface water (52 FR 42178 and 52 FR 42224). Two public hearings on these proposals have been held to date: In Washington, DC, on November 23-24, 1987; and Denver, Colorado, on December 2-3, 1987.

On January 4, 1988, the Agency published a notice extending the public comment period for these two proposed rules (53 FR 31). The notice indicated that a subsequent **Federal Register** notice would set the closing date for the public comment period, and that EPA would hold at least one additional public hearing. The January 4, 1988, notice also stated that EPA would soon publish another notice describing additional information and other possible regulatory options for public comment.

This is the subsequent notice referred to in the January 4, 1988, **Federal Register** notice. In this notice, EPA is soliciting specific data, offering additional regulatory options for comment, and clarifying and correcting statements made in the November 3, 1987, **Federal Register** proposals.

II. Discussion

A. Proposed Total Coliform Rule

1. Update of Interim Rule (Option)

In addition to what was proposed, another option under consideration is to update the interim total coliform MCL (40 CFR 141.14). This standard consists of monthly and single sample MCL. This standard has been in place since 1975 and a number of comments favor not changing the rule. The minimum monitoring frequency under the interim rule is one sample per month or one sample per quarter for systems serving less than 1000 people if the system meets the criteria in 40 CFR 141.2.

The Agency requests comments on retaining the current coliform MCL with minor adjustments (e.g., updating analytical methods).

2. Number of Sampling Sites

The proposed total coliform rule would require that systems use at least three times as many sampling sites annually as the number of samples required to be taken monthly. The intent of the proposal was to prevent a system from repeatedly using the same small number of sampling sites to the exclusion of other sites in isolated parts of the distribution system. A number of commenters, primarily large systems, oppose this proposed requirement. The following reasons were given:

- It is difficult to sample in residential areas, and nonresidential locations are too few in number to meet the proposed requirement.
- By requiring additional sampling sites, the proposed rule would reduce the number of samples collected at known trouble spots.
- The proposed rule would preclude systems from monitoring water quality at specific representative sites over time Thus, systems would lose historical data and trend information.

Several commenters offered alternative proposals for insuring that systems monitor all parts of the distribution system over time. These proposals included requiring a system to use: (1) At least the number of sampling sites annually as the number of samples required monthly; (2) at least one-half the number of sampling sites as the number of samples required monthly; (3) at least five sites/year; and (4) three times as many sampling sites annually as the number of samples required to be taken monthly (i.e., the proposed standard) but only if the system serves 3300 persons or fewer. One commenter suggested that the ratio of number of sites/year to the monthly monitoring frequency should be based upon population served, with larger systems being allowed to use a smaller ratio.

EPA still believes that it is important to require systems to monitor all parts of the distribution system over time, but recognizes that there may be practical difficulties associated with the proposed requirement. Therefore, EPA is requesting comment on an approach that would not specify the number of locations, but rather would require the

State to approve the sampling siting plan for each public water system within the State. To approve the plan, the State would have to find that it will ensure that the sampling is representative of the entire distribution system. The State would periodically review the sampling plan to insure that the locations are still representative. EPA is also soliciting comment on the four options mentioned above, and any other options that would ensure that systems sample representative sites in the distribution system.

3. Public Notification for a Single Fecal Coliform-Positive Sample

The proposed rule would require a system to test all total coliform-positive samples for fecal coliforms. If fecal coliforms were detected, this would be deemed an "acute violation" under the public notification rule (52 FR 41534, October 28, 1987); thus, the system would be required to notify the public of the violation via electronic media within 72 hours. A number of commenters opposed this proposed requirement; they gave the following reasons:

- Some fecal coliform-positive results are due to "false positives" (e.g., the presence of *Klebsiella* causes the positive result rather than *E. coli*), sample contamination, or poor laboratory procedure. Thus, all fecal coliform-positive results should be confirmed by another sample before notifying the public.
- Some large systems claim they commonly have several fecal coliform-positive samples each year without apparent health risk, and notifying the public of an acute health risk for every such sample might eventually cause indifference to such notices.
- When sampling, systems might intentionally bypass trouble spots to reduce the probability of finding fecal coliforms, if this proposal were in place.
- Only a small number of people may be affected, e.g., a single household in a metropolitan area. Notifying the entire community via electronic media for a localized problem would be inappropriate; those affected could be warned in a more direct manner without needlessly alarming the entire community.
- The proposed requirement is too inflexible. State and local authorities are in a good position to decide, after discussing the situation with the system, what precautions are necessary (e.g., issuing a boil water notice to a single neighborhood).

EPA still believes that fecal contamination in drinking water represents a significant health risk, but believes also that it is appropriate to provide some latitude to the States for deciding what action is appropriate when a single fecal coliform-positive sample is found. EPA believes that States are generally in a position to judge whether electronic media notification is appropriate. Therefore, EPA is reconsidering its proposal to classify every fecal coliform-positive sample as an acute violation. The Agency requests comment on the following alternative requirement. When a system detects fecal coliforms in a routine water sample (after identifying a total coliform-positive sample), it would: (1) Immediately notify the appropriate State agency so the agency can determine whether the public should be notified and if so, by what means; and (2) take the required number of repeat samples at the same site where the fecal coliform were found, with the exception that some, but not all, of the repeat samples may be collected at the next adjacent service connection upstream or downstream from the one where the coliform-positive sample originated. If after a system detects fecal coliforms in a routine total coliform sample it also detects fecal coliforms in any repeat sample at that location or immediately adjacent service connection, the system would be out of compliance with the monthly MCL for total coliforms. This violation would be classified as acute and § 141.21(d) of the proposed rule would apply. Section 141.21(d) requires the system to: (1) Report the monthly MCL violation to the State within 48 hours of detection of fecal coliforms; and (2) Notify the public of the violation via the electronic media, as specified in § 141.32 of the public notification rule. The State could choose to require language in the public notice specifying the extent of the fecal contamination (e.g., system-wide or confined to a specific locale). EPA believes this option would allow verification of suspected contamination and give the State the necessary flexibility to tailor the response to site-specific circumstances.

On a related issue, in the November 3, 1987, proposal, EPA requested public comment on whether *E. coli* monitoring should be allowed in lieu of monitoring for fecal coliforms. Preliminary comments were favorable. Thus EPA is considering allowing a system with a total coliform-positive sample to test for either fecal coliforms or *E. coli*, for the reasons set out in the proposal. The same requirements would apply to either group of indicator organisms for determining whether a violation has occurred and public notification is required. EPA welcomes additional comments on this proposal.

4. Monitoring Frequency

The proposed rule would require State approval for a system serving 3300 persons or fewer to reduce total coliform monitoring to less than five samples/month (see Table 1 of the proposed rule). The preamble to the proposed rule requested public comment on an alternative monitoring frequency for those ground-water systems that serve 500 persons or fewer (see 52 FR 42232, November 3, 1987). Under this approach, systems serving 500 persons or fewer would monitor at the lower monitoring frequency shown in Table 1 (52 FR 42243, November 3, 1987) of the proposed rule (i.e., one sample/month for systems using disinfected ground water; one sample/month for systems using undisinfected ground water which serve 25–300 persons, and three samples/month for systems using undisinfected ground water which serve 301–500 persons), unless the State deems it necessary to require more frequent monitoring.

Some commenters favor the alternative approach, primarily because it would reduce administrative costs for the State. The Agency is considering the adoption of this alternative in the final rule and is seeking additional public comment on it. In addition, EPA is considering broadening this alternative; the number of systems allowed to monitor fewer than five samples/month without initial State approval would be increased by including, in addition to ground-water systems that serve 500 persons or fewer, those systems serving 500 persons or fewer which use filtered surface water. EPA believes that most systems using filtered surface water would qualify for a monitoring frequency below the five samples/month specified in Table 1 of the proposed rule. By permitting such systems to monitor at the lower frequency indicated in Table 1 (i.e., one sample/month) without initial State approval, the administrative burdens on the State would be reduced.

The Agency is also examining whether all systems using undisinfected ground water and serving 25–500 persons should be allowed to reduce monitoring to one sample/month, rather than to three samples/month for systems serving 301–500 persons, as specified in the proposed coliform rule (52 FR 42224). This monitoring frequency (which is the same as the current requirement for community water systems) would reduce the burden on States because they would not have to determine which of these systems would qualify for reduced monitoring, as

specified in the proposal. EPA believes this monitoring frequency could result in the same health protection for systems serving 301–500 persons, because these systems would be required to perform a periodic sanitary survey, and if the results are unsatisfactory, they would no longer be entitled to monitor at the lower frequency (i.e., once sample/month).

In response to some commenters, the Agency is also examining whether to retain the monitoring frequency scheme in the current rule (40 CFR 141.21 (b) and (c)). The monitoring frequencies under the current rule range from one sample/month to 500 samples/ month, depending on the number of people served, for community public water systems, and one sample/quarter for non-community public water systems. The lower monitoring frequency in the current rule for many small systems, compared to the proposed rule, could prevent increased costs and still protect public health because of the added emphasis on sanitary surveys in the proposed coliform rule, the increased emphasis on treatment under the proposed surface water treatment requirements, and the forthcoming disinfection requirements for groundwater systems.

EPA is also considering an option which, regardless of the monitoring frequency scheme selected, would require a system collecting fewer than five samples/month to collect additional routine water samples for a period of time specified by EPA, whenever the system detects a total coliform-positive sample. This option, along with the proposed requirement for repeat samples, would allow the system to determine more quickly whether the drinking water was contaminated or not. Under this option, the Agency would specify the minimum number of additional routine samples a system would be required to collect.

EPA requests public comment on these issues.

5. Sanitary Surveys

EPA intends to promote the concept that a periodic comprehensive on-site evaluation (e.g., a sanitary survey) should be the basis for a variety of water quality and technology judgments that must be made in each water system. Thus, in this regulation, the Agency has proposed to require periodic on-site evaluations to determine appropriate monitoring requirements. This is not a new concept. Vulnerability assessments are already required by EPA's national primary drinking water regulations for volatile organic chemicals (VOCs) (52 FR 25690, July 8, 1987) for systems which want to reduce VOC monitoring. The assessments must be repeated every three years (or every five years for systems with fewer than 500 service connections). Also, the proposed surface water treatment requirements would require unfiltered surface water systems to conduct a sanitary survey once a year and obtain acceptable results (among other requirements) to avoid filtration. In addition, EPA intends to promulgate disinfection requirements for groundwater systems, including criteria for obtaining variances. One of the anticipated criteria for obtaining a variance would be a sanitary survey with satisfactory results. Because of these related requirements, which are summarized in Table 1, if a single sanitary survey is conducted periodically to address a variety of regulatory requirements, the incremental cost to satisfy each different regulatory requirement would be minimized. Under such a framework, EPA believes it would not be burdensome to require systems to conduct sanitary surveys at a specified frequency. EPA may base the frequency of this periodic comprehensive, multipurpose sanitary survey on system size or system type (i.e., community or noncommunity system).

TABLE 1.—FREQUENCY OR PROPOSED FREQUENCY FOR SANITARY SURVEYS/ VULNERABILITY ASSESSMENTS

Rule	No. systems affected	Frequency of sanitary survey/ vulnerability assessment (in years)
Volatile organic chemicals:		
≥500 connections	Up to 21,000	3
<500 connections	Up to 33,500	5
Coliforms:		
Surface water	10,000	3–5
Ground water	190,000	3–5
Surface water treatment requirements.	450	Annual.
Groundwater disinfection.	190,000	?
Other future regulations.	?	?

Statutory authority for requiring a periodic on-site sanitary survey is found in sections 1401(1)(D) and 1413(a)(2) of the Safe Drinking Water Act. Section 1401(1)(D) states that the term "primary drinking water regulation" means a regulation which "contains criteria and procedures to assure a supply of drinking water which dependably complies with * * * maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (1) the minimum quality of water which may be taken into the system * * *." Section 1413(a)(2) states that to obtain primary enforcement responsibility a State must adopt drinking water regulations and must adopt and implement "adequate procedures for the enforcement of * * * State [drinking water] regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation."

As described in more detail in the previous section, systems serving 500 persons or fewer would be allowed to monitor at the lower monitoring frequency in Table 1 of the proposed rule without initial State approval, as long as they perform sanitary surveys at the frequency specified in Table 1. In order to clarify the role of the sanitary survey under this alternative approach for setting the monitoring frequency, EPA is considering requiring each system serving 500 persons or fewer which collects fewer than five samples/month to complete an initial sanitary survey within a reasonable time period from the effective date of the final rule. EPA is considering at least two options for defining what constitutes a "reasonable" time period. Under the first option, EPA would not specify a date by which this survey and analysis of results must be accomplished. Under the second option, EPA would specify a specific date, perhaps two years after the effective date of the final rule.

Under either option, EPA is further considering requiring systems serving 500 persons or fewer which collect fewer than five samples/month to conduct subsequent sanitary surveys as follows: Systems which use ground water and disinfect or which use surface water and practice filtration and disinfection would be required to conduct a sanitary survey every five years; systems which use undisinfected ground water would be required to conduct a sanitary survey every three years; and systems which use unfiltered surface water would be required to conduct sanitary surveys annually. These sanitary survey frequencies are identical to those in Table 1 of the proposed rule, except in the case of systems which use surface water and do not practice filtration. In this case, EPA believes that an annual sanitary survey is necessary because of the relatively

greater potential health risk of using unfiltered surface water versus filtered surface water or ground water.

EPA solicits public comment on: (1) The length of time EPA should specify for the completion of all initial sanitary surveys; and (2) whether this initial time period or the time period between subsequent sanitary surveys should depend on system size or system type.

6. Number of Repeat Samples

The proposed rule would require each public water system to collect five repeat samples for each coliform-positive sample (under the current total coliform rule, when a coliform-positive sample is found, the system must collect daily check samples until coliforms are not detected in two consecutive samples). For systems serving 3,300 persons or fewer, the rationale for requiring five repeat samples is that under the proposal, systems permitted to reduce their regular monitoring frequency below five samples/month are allowed to do so on the basis that they would perform a periodic sanitary survey and the results would be satisfactory. The finding of a coliform-positive sample in a system that had qualified for less frequent monitoring might call that conclusion into question. In the case of a coliform-positive sample, repeat samples would allow a system to determine quickly whether a serious contamination problem exists, and if coliforms were not detected in these samples, would provide confidence that only a small percentage of its samples are coliform-positive. For a system that collects five or more samples/month, the five repeat samples would allow that system to determine quickly the severity of a local contamination problem. More repeat samples would increase the probability of detecting coliforms.

Some commenters stated that five repeat samples is an unnecessarily rigid requirement that would pose too great a financial burden to many systems. Some of these commenters thought that two repeat samples, as specified in the current rule, are adequate. EPA believes that the financial burden posed by five repeat samples would be amelioraled by the provisions in the proposed rule specifying that: (1) All repeat samples would be collected on the same day during a single trip as opposed to the current requirement which requires at least two *daily* trips to collect two different repeat samples; and (2) Repeat samples would be counted as part of the minimum monthly monitoring requirements, which the system must take anyway. Nevertheless, EPA is reexamining what the most appropriate number of repeat samples should be.

One alternative to the proposal (i.e., five repeat samples) would be to require only four repeat samples for those systems which collect fewer than five coliform samples/month. The rationale for this requirement would be that systems which monitor fewer than five times/month would be allowed to do so only if they could demonstrate that their drinking water is safe, as indicated by a periodic sanitary survey. If coliforms were detected in a sample, this assumption would be suspect and the system should be required, at least for that month, to revert to sampling at the higher baseline of at least five samples/month. For a system which collects fewer than five samples/month, the four repeat samples would bring the total number of samples for the month at least to the higher baseline. For systems which collect five or more samples/month, the four repeat samples would allow them to determine quickly the extent of local contamination.

Another option is to require systems which collect fewer than five samples/month to collect four repeat samples when a coliform-positive sample is found, as above, but allow systems which collect five or more samples/month to collect two repeat samples, rather than four. The rationale for fewer repeat samples is that systems collecting a larger number of routine samples (i.e., five or more samples/month) are more likely to detect contamination than a system collecting fewer samples, and thus fewer repeat samples are necessary.

Finally, another alternative to the proposal would be to require a minimum of two repeat samples per coliform-positive sample for all systems. States could increase the number of repeat samples, as necessary, on a case-by-case basis. The advantage of this requirement is that it is similar to the current requirement (i.e., a repeat sample on each of two consecutive days) and thus would require little readjustment by systems. Also, this requirement would be less costly. A variation of this proposal would be to require two repeat samples of 250 ml each, which would result in examination of the same volume of water as five 100-ml repeat samples. EPA is also considering requiring two repeat sample volumes of 200 ml or 300 ml to allow systems to use even multiples of the standard 100-ml sample bottles.

The Agency requests public comment on the appropriate number of repeat samples, the volumes of each repeat sample and the rationale for the recommendation. EPA also requests that commenters provide any data which would indicate the increase in costs, especially for a small system, posed by the proposed requirement for five repeat samples.

7. Long-term MCL

Some commenters have indicated that States might have difficulty keeping track of compliance with the proposed long-term MCL. The primary rationale for the proposed long-term MCL is to insure that intermittent (as opposed to continuous) contamination is controlled. A shortcoming of the current coliform rule is that it fails to address this problem. Under the November 3, 1987, proposal, without the proposed long-term MCL, a system collecting one sample/month could regularly have total coliforms in 20 percent of its samples month after month (assuming that the system finding a coliform-positive sample then collects four repeat samples, as specified in the proposal, and each is coliform-negative), and still be in compliance with the proposed monthly coliform MCL, even though the system is obviously subject to intermittent contamination. For this reason, the Agency believes that some limit should be placed on the percentage or number of samples over time which are coliform-positive. This is the purpose of the long-term MCL.

One alternative to the proposed long-term MCL for systems which collect fewer than 60 samples/year would be to define non-compliance with the long-term MCL as follows: Noncompliance occurs when in any four or more months out of a consecutive 12-month period, a system detects coliforms in more than five percent of its monthly samples. In this way, States would not have to track systems for more than one year. Many noncommunity systems, however, do not provide water more than three months of the year, and thus might never violate this alternative long-term MCL, even though intermittent contamination may exist. For this reason, EPA is considering another alternative, at least for non-community systems which collect fewer than 60 samples/year. Under this option, a system would violate the long-term MCL if more than three samples in 12 consecutive calendar months were coliform-positive. For systems which collect fewer than 60 samples/year, three coliform-positive samples are five percent of 60 samples. Therefore, in this instance, if a system draws four or more coliform-positive samples it is in violation of the proposed long-term MCL, which is based on 60 samples.

EPA is also examining another alternative which would define a violation of the long-term MCL as occurring when a system detects coliforms in more than five percent of the samples collected during a month, unless the system can demonstrate that no more than five percent of its most recent 60 samples were total coliform-positive. Under this alternative, the proposed follow-up actions to a coliform-positive sample (e.g., repeat samples and fecal coliform determinations) would still apply.

Another option would be to delete the proposed long-term MCL, but require States to choose from a list of EPA-approved actions (e.g., perform a sanitary survey, require system to issue a boil water notice, require system to disinfect continuously), whenever the number of total coliform-positive samples from a system exceeds five percent of the total number of samples during an EPA-specified time period (e.g., most recent 12 months).

EPA seeks public comment on these alternative approaches, and requests other reasonable ideas for identifying intermittent contamination.

8. Analytical methods for coliforms

The proposed coliform rule, in § 141.21(b), would approve three analytical methods for detection of total coliforms. Since the proposal, EPA has been evaluating additional methods for possible approval, including the "Colilert" system (unpublished). In this notice, EPA is proposing to approve the Autoanalysis Colilert system for total coliform analysis, in addition to the previously proposed Membrane Filter (MF) Technique, Multiple-Tube Fermentation (MTF) Technique, and the Presence-Absence Coliform (P–A) Test.

The Autoanalysis Colilert test represents a technology transfer from clinical microbiology, and is based on the ability of coliforms to produce the enzyme b-galactosidase to hydrolyze o-nitrophenyl-b-D-galactopyranoside and produce a yellow color. The test formulation does not support the growth of non-coliform organisms. In addition, the enzyme b-glucuronidase produced by *E. coli* forms a fluorescent substance when it hydrolyzes 4-methylumbilliferyl-b-D-glucuronide (MUG). The combination of these two substrates in a single formula allows detection and confirmation of both total coliforms and *E. coli* within 24 hours. The test is simple; it requires the addition of measured amounts of water to a powdered medium, incubation, and observation of a yellow color if total coliforms are present. If the yellow tubes are subjected to ultraviolet light (366 nm), and *E. coli* are present, the tubes will fluoresce.

EPA and the American Water Works Association Research Foundation supported an extensive field evaluation that compared recoveries of total coliforms by the MF method, 5- and 10-tube MTF method, the P–A test, and the Autoanalysis Colilert system as a 10-tube test for coliform density and as a 100-ml test for the presence or absence of coliforms. Statistical analyses showed either no significant difference or slightly higher coliform-positive results with the Autoanalysis Colilert system than the MTF technique. The Autoanalysis Colilert system was significantly more precise than the MTF technique at two of the five test sites and equivalent to the MTF technique at the remaining three sites. When recoveries using the P–A test and the Colilert system were compared, the results were equivalent 95 percent of the time. Recoveries using the MF technique and the Colilert system were also equivalent. These data have not as yet been published, but the study report has been placed in the coliform docket for the proposed rule.

EPA is also proposing to approve the Autoanalysis Colilert system for analyzing samples taken to comply with the current coliform rule as a five-tube quantitation method; the Agency believes the data demonstrate that this method is at least as good as the currently approved methods and its use should not be delayed until the effective date of the final revised coliform rule.

The Agency requests public comment and data on the effectiveness and practicality of this new analytical procedure and of any other procedures which detect total coliforms, and any data indicating that any procedures proposed should not be approved.

9. Clarifications and corrections to the proposed coliform rule

(i) Section 141.21(a)(5) of the proposed rule states that public water systems that do not provide water year-round need only collect samples each month that the system provides water to the public, and that such systems must monitor as specified in Tables 1 and 2, using the estimated population, including transients, served during that month. For the purposes of this rulemaking, estimated population during the month is proposed to be defined as the average daily population during the month, not the total monthly population.

(ii) Section 141.21(f) (1) and (2) of the proposed rule defines potential interference with the analysis for total coliforms by high levels of heterotrophic bacteria. To clarify § 141.21(f)(1), interference should be reported if a turbid culture appears in *one or more tubes* in the absence of gas production, using the multiple tube fermentation technique.

(iii) Section 141.63(2)(iv) of the proposed rule should read, "Public water systems which have violated the long-term MCL remain in noncompliance until coliforms are not detected in more than five percent of the most recent 20 or more samples."

(iv) Section 142.16 of the proposed rule should be titled, "Special primacy requirements."

(v) Table 1 of the proposed rule identifies three population categories: 25–500 persons, 501–3,300 persons, and over 3,300 persons. For the purposes of this rule, public water systems serving fewer than 25 persons, but having at least 15 service connections, would be included in the 25–500 person category.

B. Proposed Surface Water Treatment Requirements

1. Disinfection Residual in the Distribution System

The proposed rule would require that all surface water systems measure and record the disinfectant residual in the distribution system at the same frequency and locations as required for total coliform measurements under the proposed total coliform rule. The purpose of this requirement is to: (1) Ensure that the distribution system is properly maintained and identify and limit contamination from outside the distribution system; (2) limit the growth of heterotrophic plate count bacteria (HPC) and *Legionella* within the distribution system; and (3) provide a minimum target which, if exceeded, would trigger remedial action. Under the proposed rule, disinfectant residuals could not be less than 0.2 mg/l at any location in the system in more than five percent of the samples in a month, for any two consecutive months, on an ongoing basis. Failure to meet this requirement would constitute a Tier 1 (non-acute) violation of a treatment technique requirement, as defined in the revised public notification requirements in § 141.32(a), and thus would require the system to notify the public by newspaper, posting, or hand delivery within 14 days following the violation, as specified in the revised public notification rule. The basis for these proposed requirements is given in the preamble to the proposed rule (52 FR 42199, November 3, 1987).

Commenters made the following observations pertaining to this requirement:

• Many systems which have microbiologically safe water in the distribution system would not be able to meet this criterion.

• Achieving compliance with this requirement by increasing the levels of free chlorine in the distribution system might increase exposure to disinfectant by-products and/or result in violations of current or future total trihalomethane and other disinfectant by-product regulations.

• There is no evidence of any benefit in maintaining disinfectant residuals of 0.2 mg/l or greater.

• If disinfectant residuals are required, the requirements should be different for different disinfectants because they vary in effectiveness.

Commenters proposed the following alternatives to address the issues they raised: (1) Delete any disinfectant residual requirements for distribution systems from this rule, postponing the determination of appropriate requirements, if any, until the disinfection by-products rulemaking (scheduled for promulgation by January 1991); (2) Maintain the proposed criterion but, in lieu of requiring residuals of at least 0.2 mg/l, simply require residuals to be "detectable" or "measurable"; (3) Maintain the proposed criterion but allow systems to measure for HPC using the standard pour plate method at sites with residuals of less than 0.2 mg/l and, if the HPC measurement is less than 500/ml, consider the site as having met the residual requirements; and (4) A combination of (2) and (3), i.e., maintain the proposed criterion but require "detectable" residuals in lieu of residuals of at least 0.2 mg/l, and consider sites that do not have "detectable" residuals but have HPC measurements of less than 500/ml to be equivalent to sites with "detectable" residuals for purposes of determining compliance. EPA is considering adoption of the last alternative described above because the Agency believes this option would fulfill the same objectives as the requirements in the proposed rule (as set out above). Under the alternative option, EPA believes the potential conflict between this requirement and any future regulations to control disinfectant residuals and disinfectant by-products, and cost impacts resulting from changes in disinfection practice to meet these requirements, would be minimized.

EPA would like to receive additional comments on the appropriateness of the proposed alternative, as well as the other options described above. EPA specifically solicits comments on the following issues: What data are available to indicate that "detectable" total chlorine, free chlorine, chloramine, or chlorine dioxide residuals would inhibit growth of HPC in the distribution system? Would small systems be expected to have difficulty in meeting the November 3, 1987, proposed requirements? Since HPC samples must be analyzed within eight hours and in-house monitoring capability for small systems is generally not expected to be available, would the option of measuring HPC at sites where residuals were less than 0.2 mg/l (or not "detectable") be feasible for small systems? If not, what options should be allowed for small systems?

As noted above, the proposed rule would require that all surface water systems measure the disinfectant residual in the distribution system at the same frequency and locations as required for total coliforms under the proposed total coliform rule. If the monitoring requirements for total coliforms in the distribution system are changed in the final rule from what was proposed, is it appropriate to also change the requirements for monitoring the disinfectant residual in the distribution system? In other words, should the requirements for monitoring disinfectant residual in the distribution system coincide with the monitoring requirements for total coliforms in the final total coliform rule? If not, what monitoring requirements for disinfectant residuals would be appropriate?

2. Continuous Disinfection Residual at the Entry Point to the Distribution System

The proposed rule would require that all surface water systems continuously monitor the disinfectant residual entering the distribution system in order to assure a continuous treatment barrier of protection from pathogenic organisms. Each system would be required to record the lowest disinfectant residual concentration entering the distribution system each day; any time the residual was less than 0.2 mg/l would be considered an "acute" violation of a treatment technique requirement for purposes of public notification (see § 141.32(a)(iii)). Thus, as specified in the revised public notification rule, a system that has such a violation would be required to notify the public of the violation within 72 hours via electronic media, as well as comply with the public notification requirements for all Tier 1 violations (which include treatment technique violations).

Commenters made the following points regarding this requirement:

• The cost for very small systems to install continuous monitoring equipment is excessive (cited as about $5,000 for one analyzer and continuous recorder; with another unit as a backup, the capital costs would be $10,000).

• The short-term absence of a disinfectant residual at the entry point to the distribution system should not automatically trigger immediate public notification via electronic media since the actual health risks, which would depend upon site-specific circumstances, may not be significant.

Based on these comments, EPA is proposing to: (1) Allow systems serving less than 500 people to collect and analyze one grab sample of disinfectant residual each day in lieu of continuous monitoring; (2) Require systems serving less than 500 people that only analyze one grab sample each day to collect and analyze another disinfectant residual measurement within four hours of any measurement which is less than 0.2 mg/l (or does not have a "detectable" disinfectant residual, as described in the previous section); (3) Require all systems, regardless of system size, to notify the State immediately when the residual concentration is less than 0.2 mg/l (or, alternatively, when there is no "detectable" residual concentration in the water) regardless of whether or not the residual concentration is restored within four hours; and (4) Define a violation of this particular requirement as a violation of a treatment technique requirement, i.e., Tier 1, but not acute, for purposes of public notification, if within 4 hours the residual remains less than 0.2 mg/l (or, alternatively, a "detectable" residual concentration has not been restored within 4 hours). EPA believes these changes would reduce the cost burden, especially for small systems, and avoid unnecessary public notification, and still ensure that any significant lapse in disinfection would be detected.

EPA solicits comments on these suggested changes to the November 3, 1987, proposed rule. Also, if the final rule requires a "detectable" residual in lieu of a residual of 0.2 mg/l in the distribution system, should the requirement for the water entering the distribution system also be the presence of a "detectable" residual? Should another cutoff point (e.g., 500 service connections or 3300) be used for determining when daily grab sample monitoring could be used in lieu of continuous monitoring? In addition, as an added measure of protection, should total coliform measurements be required at the point of entry to or in the distribution system when the system

fails to maintain the required disinfectant residual? If so, what action should be taken if such samples are coliform-positive?

3. Turbidity Monitoring and Performance Criteria

Under the proposed rule, systems which use conventional treatment or direct filtration would be required to monitor the turbidity of a representative sample of filtered water with one grab sample every four hours when water is being delivered to the distribution system. The system could substitute continuous monitoring for grab sampling, upon State approval, and use the turbidity value for every four hours to determine compliance with the turbidity performance criterion. Under the proposed rule, for a system using conventional treatment or direct filtration, the turbidity level of the system's filtered water must be less than or equal to 0.5 NTU in at least 95 percent of the measurements taken each month. For a system using slow sand or diatomaceous earth filtration, the turbidity level must be less than 1 NTU in at least 95 percent of the measurements taken each month. If the State determined that on-site studies demonstrate at least 99.9 percent overall removal/inactivation of *Giardia* cysts, the State could specify a higher performance standard, up to 1 NTU in 95 percent of the samples in a month. The basis for the proposed turbidity monitoring and performance criteria was explained in the preamble to the proposed rule (52 FR 42200, November 3, 1987).

Commenters raised the following issues pertaining to this criterion:

- Monitoring of turbidity either every four hours, or by continuous monitoring and recording equipment, is not feasible for small systems.
- The same turbidity performance criteria should apply to all technologies because the same water quality should be required for all systems.
- There is no evidence of significant increased health protection, in terms of avoiding waterborne disease outbreaks, under the criteria of the proposed rule versus the existing (less stringent) turbidity MCL.
- Many systems, especially smaller systems, would incur significant costs to make treatment changes to comply with the proposed criteria.

For systems serving less than 500 people, EPA is considering allowing the State to reduce the monitoring to one grab sample per day, if the historical performance and operation of the system indicate effective turbidity removal under the variety of conditions expected to occur in that system. EPA believes the provision for reduced monitoring is appropriate because, for very small systems, grab sample monitoring every four hours of operation is not feasible, and automated turbidity monitoring equipment is costly to purchase and maintain. At the reduced monitoring frequency, the same performance criteria would apply. Thus, if two out of 30 samples taken in one month exceed the turbidity limit, then less than 95 percent of the samples would meet the turbidity performance criterion, and the system would be in violation of a treatment technique requirement (however, this would not be considered an acute violation under the revised public notification requirements). EPA solicits comments on this suggested change to the November 1987 proposed rule.

EPA believes that it is feasible for most systems using conventional treatment or direct filtration to achieve the turbidity performance criterion of 0.5 NTU (see 52 FR 42200, 42205–42206), and that this turbidity level is generally necessary to achieve at least 99 percent removal of *Giardia* cysts under all conditions of raw water quality. In addition, EPA believes it is generally necessary for systems using conventional treatment or direct filtration to meet the proposed turbidity limit in order to achieve at least 99.9 percent removal/inactivation of *Giardia* cysts with filtration and disinfection. EPA recognizes that many existing filtered systems may currently not be meeting the proposed turbidity limit; however, EPA believes that most of these systems would be able to meet the proposed limits with treatment modifications that involve very low costs (see Table VII–3, 52 FR 42206).

EPA recognizes that it may be possible for some systems that are not meeting the proposed turbidity performance criteria, depending upon raw water quality and other treatment characteristics, to achieve the overall minimum (or better) removal and/or inactivation of *Giardia* cysts. Therefore, the proposal allows for the State to specify higher turbidity performance criteria up to 1 NTU if the system can demonstrate to the State that it is achieving at least 99.9 percent removal/inactivation of *Giardia* cysts by filtration and disinfection. EPA has developed draft guidelines for making such determinations in the October 8, 1987, "Draft Guidance Manual for Compliance With the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources" ("draft Guidance Manual"). One of the recommended approaches in the draft Guidance Manual is to determine, by pilot plant studies, the percent removal of particles equivalent in size to *Giardia* cysts and to combine this with the percent inactivation of *Giardia* cysts achieved by disinfection, as determined from CT values (the CT value is the product of residual disinfectant concentration "C" in mg/l and the disinfectant contact time "T" in minutes) to determine the overall removal and/or inactivation. The proposal would also allow for demonstrations for one system to apply to another system with the same design and operating conditions and similar source water quality.

EPA is considering modifying the November 1987 proposed criteria to allow the State to determine whether the system is achieving the minimum performance requirement of 99.9 percent removal/inactivation of *Giardia* cysts at filtered turbidities up to no more than 1 NTU 95 percent of the time, without any required showing by the system (e.g., pilot plant study results). Such a determination could be based upon an analysis of existing design and operating conditions (e.g., adequacy of treatment prior to filtration, percent turbidity removal across the entire treatment chain, and stringency of disinfection), and/or performance relative to certain water quality characteristics (e.g., microbiological analysis of the filtered water, and particle size counting before and after the filter). Under this option, the State could consider such factors as source water quality and system size in determining the extent of analysis necessary (e.g., whether a pilot plant demonstration would be needed). In the final Guidance Manual, EPA intends to provide additional guidance to the States for determining when higher turbidity performance criteria could be allowed.

Also, EPA notes that Section 1416 of the SDWA allows States to grant one-year exemptions to systems which cannot meet the treatment requirements in the time specified due to "compelling factors" (which may include economic factors) if they determine that the exemption would not result in an unreasonable risk to health. The initial one-year exemptions may be extended for up to three additional years if certain requirements are met. Systems with 500 or fewer service connections are eligible for additional two-year extensions of the exemptions if the system is taking all practicable steps to meet the standard. (See Section 1416 of the Safe Drinking Water Act for a more complete description of the standards for exemptions.)

EPA solicits information on the following issues related to the proposed turbidity performance criteria: What criteria should be used to allow systems to exceed the turbidity limit of 0.5 NTU? What treatment modifications have systems attempted that still result in failure to meet the proposed turbidity performance criteria? Do source water conditions exist that make it unreasonable to expect certain systems to achieve filtered water turbidities of less than 0.5 NTU? Should another cutoff point (e.g., 500 service connections) be used for determining when once a day grab sample monitoring for tubidity might be appropriate? Are data available that indicate effective *Giardia* cyst removal at higher turbidity limits than those which have been proposed? Are EPA's estimated costs for systems to upgrade to meet the proposed turbidity performance criteria reasonable (see Table VII–3, 52 FR 42206)? In responding to this last question, EPA would especially appreciate detailed system level costs where all assumptions are explicit and total costs are reported in cents per 1000 gallons of water produced.

4. CT Values

To avoid filtration, the proposed rule would require surface water systems to disinfect and to achieve at least 99.9 percent and 99.99 percent inactivation of *Giardia lamblia* cysts and enteric viruses, respectively, as determined by CT values. The proposed rule would require filtered systems to disinfect, and for the overall treatment (i.e., filtration and disinfection) to achieve at least 99.9 percent removal/inactivation and 99.99 percent removal/inactivation of *Giardia* cysts and enteric viruses, respectively. The State would determine whether the system complies with the overall treatment performance requirement for *Giardia lamblia* cysts and enteric viruses. In the draft Guidance Manual, EPA recommends that, in general, filtration (with any pretreatment appropriate for the specific technology used) should be assumed to achieve at least 99 percent removal of *Giardia lamblia* cysts and 90 percent removal of enteric viruses. Therefore, in order for a system which is filtering to achieve at least 99.9 percent and 99.99 percent removal/inactivation of *Giardia lamblia* cysts and enteric viruses, respectively, the system should provide disinfection which achieves at least a 90 percent inactivation of *Giardia lamblia* cysts. With the possible exception of chloramines, CT values which achieve greater than a 50 percent inactivation of *Giardia lamblia* cysts would be expected to achieve greater than a 99.99 percent inactivation of enteric viruses; thus, a system which achieves greater than 50 percent inactivation of *Giardia lamblia* cysts would also satisfy the overall minimum performance requirement for enteric viruses.

EPA received the following comments about the CT values presented in the proposal:

- The data base used to establish CT values is not substantial.
- The proposed safety factors associated with the CT values are excessive.
- The proposed CT values are based on laboratory data which might not reflect field conditions.
- The methods prescribed in the proposed rule and draft Guidance Manual for calculating "C" and "T" to determine "CT" are overly conservative.
- For filtered systems, the guidelines restricting predisinfection credit to water with low turbidity is unwarranted.
- The methods prescribed in the proposed rule and Guidance Manual for calculating ozone CT values are not reasonable given the nature of its rapid decomposition in water and the nature of its application in contact basins.
- The CT values for ozone in the proposed rule were based upon ozone measurement using the Idiometric method which measures ozone and free radicals, whereas the proposed rule would require systems to measure ozone using the Indigo method (which only measures ozone residuals). EPA should allow the Idiometric method to be used for measuring ozone residuals to determine "C."
- More flexibility is needed for demonstrating that chloramines are an adequate primary disinfectant when long contact times are used.

In sum, many industry commenters claim that most filtered systems would not be able to achieve the percent inactivations recommended in the Guidance Manual using their current disinfection practice. These commenters further claim that since there is no evidence of waterborne disease associated with current conventional treatment systems that are properly operated, the CT values recommended in the draft Guidance Manual are not justified. In addition, some commenters claim that the same argument applies to many unfiltered supplies.

EPA is considering all of the above issues and comments in the development of the final rule and final Guidance Manual. Specifically, the Agency is currently reevaluating the basis for the CT values in the November 3, 1987, proposed rule and in the draft Guidance Manual. As a result of this analysis, which is not yet complete, the CT values in the final rule and final Guidance Manual may change from those which were proposed. EPA solicits comment on the rationale that should be used for determining appropriate CT values and methods for their calculation.

In addition, based on analysis of existing data and comments received to date, EPA is considering adopting certain changes to the proposed rule and draft Guidance Manual regarding the determination of CT values by public water systems. EPA solicits comment on these changes, which are described below:

a. *Calculation of CT values for ozone.* Under the proposed rule, systems without filtration would be required to calculate CT values for ozone using the same methodology as for other disinfectants, i.e., the ozone concentration would be measured at some point prior to the application of any other disinfectant. Because ozone is highly reactive and dissipates quickly, measuring ozone at the effluent downstream of the contact basin, as specified in the proposal, could grossly underestimate or overestimate (in the case of a counter current reactor) the actual CT value. Thus, EPA is now considering allowing the State to determine on a case-by-case basis, for each system using ozone, how ozone concentrations should be measured for the purpose of calculating whether the CT values in the rule have been met. EPA would recommend in the final Guidance Manual how "C" and "T" should be determined for the purpose of obtaining a CT value. In principal, EPA intends to revise the draft Guidance Manual to recommend that the system determine, during peak hourly flow, the profile of ozone concentration across the contact basin, or each contact basin in the case of multiple stage reactors, and use the average concentration in lieu of the effluent concentrations to determine "C." The average concentration, "C," could be calculated across any reactor in which there was a measureable concentration of ozone in the effluent (or influent in the case of a counter current reactor). This approach would provide a more representative measurement of ozone. This guidance would also apply to filtered systems using ozone for determining their CT values. EPA still intends to require that ozone residual be measured using the Indigo method; however, EPA is considering lowering the proposed CT values for ozone since they were originally based upon measurements using the Idiometric method.

According to the draft Guidance Manual, within the contact basin, "T" should be based upon the time it would take the tracer concentration in the effluent to reach 10 percent of the tracer concentration in the influent (i.e., the T_{10} value) during peak hourly flow. Commenters have suggested that this is unrealistic, especially for ozone applied in a contact basin, which simulates a completely mixed reactor. Some commenters have suggested that the T_{50} value during peak hourly flow, rather than the T_{10} value, be used in the CT calculation. EPA has concerns about adopting such a guideline for ozone (or for other disinfectants) because at the T_{50} value, only 50 percent of the water is receiving the contact time necessary to meet the designated CT value (versus 90 percent of the water receiving the contact time to meet the designated CT value if the T_{10} value were used). EPA solicits additional comments on this particular issue. Should another methodology be used for determining "T" in ozone reactors? Is it appropriate to allow use of T_{50} for CT determinations for ozone versus T_{10} for CT values for other disinfectants, given that the CT values in the rule for ozone, extrapolated from laboratory data, are based upon a much larger safety factor than are the CT values for chlorine? If the revised method for calculating "C" and the procedure for determining "T" (i.e., using the T_{10} value) were adopted, are the proposed CT values for ozone in unfiltered supplies in the November 1987 proposed rule, and the recommended CT values for filtered water supplies in the draft Guidance Manual, feasible for systems to achieve?

b. *Chloramines.* Under the proposed rule, unfiltered supplies using chloramines could demonstrate, through the use of a State-approved protocol for on-site disinfection challenge studies, that lower CT values than those indicated in the rule achieve the required percent inactivation. This provision is included for chloramines, but not for other disinfectants, because chloramination, as conducted in the field, is more effective than using preformed chloramines. (The CT values in the rule are based on laboratory data using preformed chloramines.)

The draft Guidance Manual recommends that animal infectivity studies be used to determine the CT values necessary to achieve 99.9 percent inactivation of *Giardia* cysts and that the MS_2 bacteriophage be used as an indicator to determine CT values necessary to achieve 99.99 percent inactivation of enteric viruses. EPA believes that other methodologies also may be appropriate. In the final Guidance Manual, EPA intends to recommend that the procedure for evaluating disinfection efficiency of *Giardia* cyst inactivation using excystation, discussed by Hoff, *et al.*, 1985, be allowed to determine CT values for achieving up to 99 percent inactivation of *Giardia* cysts using chloramines. EPA intends to recommend that $CT_{99.9}$ values (CT values necessary to achieve 99.9 percent inactivation) be estimated based upon multiplying CT_{99} values, determined using excystation, by two; $CT_{99.9}$ values cannot be directly determined using excystation because of the constraints of the methodology. Multiplication by the factor of two, rather than 1.5, provides a margin of safety more conservative than the assumption of direct extrapolation using first order kinetics. In the final Guidance Manual, EPA also intends to recommend that *Giardia muris* cysts be allowed to be used as a model for *Giardia lamblia* cysts using excystation, since results of disinfection experiments using excystation to measure viability consistently indicate that *Giardia muris* cysts, which apparently are not pathogenic to humans, are more resistant to inactivation than *Giardia lamblia* cysts. The final Guidance Manual would also recommend use of excystation, as described by Hoff, *et al.*, 1985, to determine percent *Giardia* cyst inactivation in filtered systems to demonstrate the effectiveness of chloramines as a primary disinfectant (e.g., 90, 95, or 99 percent inactivation, as needed). EPA intends to conduct a workshop in 1988 to demonstrate how excystation can be used for determining CT values for systems using chloramines. EPA also intends to recommend in the final Guidance Manual that systems using chloramines for primary disinfection be required by the State to monitor the water entering the distribution system on a regular basis for HPC and, in general, maintain levels of less than ten organisms/ml using the standard pour plate procedure. According to Geldreich, *et al.* (1987), HPC is a good overall indicator of treatment efficiency and the density of heterotrophic bacteria in the plant effluent can easily be maintained at less than ten organisms/ml.

EPA solicts comment on the above criteria. EPA also requests comment on whether other methodologies or performance criteria would be appropriate for determining whether chloramines should be allowed as a primary disinfectant.

c. *Predisinfection credit.* In the draft Guidance Manual, EPA recommends that, in filtered water supplies, disinfection credit toward *Giardia* and virus inactivation only be allowed if the turbidity in the water is less than 5 NTU and 1 NTU, respectively. EPA intends to delete this recommendation and allow credit for disinfection of *Giardia* and viruses prior to filtration, regardless of the turbidity level, because EPA believes it is reasonable to assume that any pathogens present in the water would either be removed along with the turbidity removed by filtration, or be directly exposed to disinfection. The time of exposure (i.e., the "T" disinfectant contact time, in "CT"), type of disinfectant, disinfectant concentration, and the pH and temperature of the water would determine the amount of inactivation that is achieved. Percent inactivation achieved by disinfection for each unit process prior to filtration would be based upon CT values, where "C" is measured at the end of each unit process (with the exception of ozone, as previously described), and "T," as determined by tracer studies, is measured across each unit process.

d. *Other issues.* In the November 1987 proposal, EPA solicited comment on the appropriateness of various criteria specifically related to the "CT" concept in the proposed rule and the draft Guidance Manual (52 FR 42209). EPA would like to receive additional comments on the following questions.

Are the recommended general guidelines that filtration can be assumed to achieve at least a 99 percent removal of *Giardia*, and that such systems should achieve at least 90 percent inactivation of *Giardia* by disinfection, in order to satisfy the overall 99.9 percent removal/inactivation requirement, appropriate? Under what circumstances should systems which achieve less than 90 percent inactivation by disinfection be considered to achieve the overall removal/inactivation requirement of 99.9 percent for *Giardia* cysts? What data are available to indicate disinfection efficiencies for *Giardia* cyst and enteric virus inactivation at high pH conditions encountered in such unit processes as lime softening? What data are available to indicate that systems are meeting the overall minimum performance requirements (99.9/99.99 percent removal/inactivation of *Giardia* and viruses) without meeting the proposed minimum turbidity criteria and/or CT values?

The draft Guidance Manual suggests that systems using conventional treatment or slow sand filtration, with source water low in total coliform

concentrations, might in some circumstances be allowed to achieve as little as 50 percent inactivation of *Giardia* cysts (which is also considered to achieve greater than a 99.99 percent inactivation of enteric viruses), and still be considered as meeting the overall minimum performance criteria. Are such guidelines appropriate?

Should CT values for unfiltered systems be included in the Guidance Manual rather than in the rule? One of the major reasons why EPA included CT values for unfiltered systems in the proposed rule was to make the determination of whether filtration should be required to be more self-implementing. To the extent the final rule contains self-implementing criteria, the system knows what it is required to do from the face of the rule, a judgment by the State (either a system-specific decision, or the State's own self-implementing criteria) is unnecessary. Because self-implementing criteria minimize transactional costs and are easier to enforce, they are generally desirable. However, since self-implementing criteria do not allow for site-specific considerations, they are not always appropriate. As proposed, the disinfection requirements, as they relate to CT values, are self-implementing for unfiltered systems, but not for filtered systems.

Other reasons why EPA included CT values in the rule for unfiltered systems, versus not for filtered systems, were: (1) For free chlorine, which is the most widely used disinfectant, more data are available on which to base the CT values required for unfiltered systems than there are for filtered systems; (2) In general, unfiltered supplies are at greater risk to waterborne disease than are filtered supplies and, therefore, depending upon the technology in place, source water quality, and issues relating to disinfectant by-products, States should have less flexibility in setting disinfection requirements for unfiltered systems; and (3) The proposed rule includes self-implementing turbidity performance criteria for filtered supplies that, in part, serve as an indicator for *Giardia* cyst removal; without CT values in the rule for unfiltered systems, there would be no self-implementing indicator for the level of *Giardia* cyst inactivation in these systems. Is EPA's rationale for including CT values in the rule for unfiltered systems but not for filtered systems reasonable?

For unfiltered systems, is it reasonable to include in the rule CT values for some disinfectants (e.g., chlorine) and not for others (e.g., ozone), leaving the latter to guidance, depending on the amount of data that is available for a given disinfectant. Should EPA include CT values in the rule for unfiltered supplies for all disinfectants and give States the option of allowing lower CT values based on site-specific studies in which the system demonstrates that disinfection achieves at least 99.9 percent and 99.99 percent inactivation of *Giardia* cysts and enteric viruses, respectively? Should CT values for filtered systems be included in the rule, rather than leaving them in guidance? What rationale should support EPA's decisions on these issues?

III. Economic Impact

The additional regulatory options and clarification in this notice would have varying effects on the total cost of the compliance with the rules. In most cases, costs would be lower than the proposed rules.

Following is a brief discussion of the cost implications of the changes discussed in the two proposed rules. Where dollar values are shown, the estimates should be considered highly approximate. They will be refined by the time the rule is promulgated.

1. Coliform Rule

- *Number of sampling sites.* States would incur additional costs to review each system's sampling plan but system would have reduced costs due to need to identify fewer locations.

These costs are expected to be negligible.

- *Public notification for a single fecal coliform-positive sample.* Latitude given to the States is expected to result in fewer notifications, but maintain the follow-up requirement, with lower attendant costs.
- *Monitoring frequency.* The reduction in monitoring frequency for systems serving fewer that 500 people is expected to reduce the "best case" cost estimate from $72 million/year to $55 million/year.
- *Sanitary surveys.* No significant change in costs.
- *Number of repeat samples.* Several options for a reduction in the number of repeat samples are presented. A representative estimate of the savings is less than one million dollars per year, nationwide. The savings to any particular small system could be 40 percent of previous estimates.
- *Long-term MCL.* No significant change in costs is expected, since the number of samples taken would remain unchanged. There may be some small savings in implementation costs to the States because they will not have to track systems for more than one year.
- *Analytical methods for coliforms.* Costs for coliform testing are expected to decrease significantly, perhaps as much as 33 percent, with the use of the Autoanalysis Colilert test. The test is simpler and less labor-intensive than existing methods. In addition, systems may be permitted to test for *E. coli* in place of fecal coliforms. Testing for *E. coli* by the Autoanalysis Colilert method can be done at no additional cost, since it merely involves viewing a total coliform-positive culture under an ultraviolet light.
- *Clarifications and corrections to the proposed coliform rule.* The compliance costs for noncommunity water systems are expected to be less because monitoring requirements are tied to population served, and the definition of population served would be changed from total monthly population to average daily population. National costs might drop by as much as 10 percent.

2. Surface Water Treatment Rule

- *Disinfection residual in the distribution system.* Other than the costs for monitoring, and the costs for systems not currently disinfecting to install disinfection, the costs assumed for compliance with this criterion were assumed to be negligible under the proposed rule. Based on public comments received, it appears that EPA may have underestimated the cost associated with this criterion. If EPA adopted the option discussed in this notice the cost impacts for complying with this criterion would be reduced. EPA anticipates that the national costs associated with complying with this criteria, modified according to the option discussed in this notice, would be very small relative to the other costs for complying with this rule. EPA is currently evaluating these costs and solicits comment on data that might be considered in this analysis.
- *Continuous disinfection residual at the entry to the distribution system.* A change from continuous monitoring to the use of a grab sample for systems serving fewer than 500 people is expected to reduce national costs from $8.8 million to $4.3 million per year. System level costs of residual monitoring would drop by 85 percent.
- *Turbidity monitoring and performance criteria.* These changes are expected to reduce national costs from $3.5 million to $1.6 million per year. System level costs of turbidity monitoring would drop by 85 percent.
- *CT values.* The various changes under consideration would reduce the cost of compliance compared to the proposed rule for unfiltered systems.

However, a review of the public comments suggests that the costs in the proposed rule may have been underestimated for filtered systems. Although CT values are not specified in the rule for filtered systems, the Guidance Manual recommends different levels of disinfection as a function of different source water quality criteria. Under the proposed rule, EPA assumed that costs for filtered systems to modify existing disinfection practice to be negligible when compared with treatment costs to upgrade filtration practice. EPA is currently evaluating the national costs for filtered systems to upgrade disinfection to meet the guidelines that will be recommended in the final Guidance Document. This analysis is not yet complete because, as already mentioned, the CT values are under consideration for change.

The Agency solicits comments on its use of the population-based discriminator found throughout the rule package. Generally, monitoring requirements are less onerous for systems which serve fewer than 500 people. EPA would like comments on alternative size discriminators, for all elements of the filtration and coliform rule including the use of service connections in place of population.

IV. Request for Public Comments

EPA welcomes any comments on the November 3, 1987, proposed rules, as well as comments on the specific issues and options described in this notice.

V. Citation

Hoff, J.C., Rice, E.W., and Schaefer, F.W. Comparison of Animal Infectivity and Excystation as Measures of *Giardia muris* Cyst Inactivation by Chlorine. Appl. Environ. Microbiol. 50:1115–1117. 1985.

Geldreich, E.E., Greenberg, C.H., Haas, C.H., Hoff, J.C., Karlin, R.J., Martin, J., Moser, R.H., Regunathon, P., Reich, K., and Victoreen, H. Organisms in Water Committee Report: Microbiological Considerations for Drinking Water Regulation Revisions. Jour. AWWA, pp. 81–88, May 1987.

Date: April 27, 1988.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 88–10080 Filed 5–5–88; 8:45 am]

BILLING CODE 6560–50–M

federal register

Friday
May 6, 1988

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21, 25, and 36
Standards Governing the Noise Certification of Aircraft; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 25, and 36

[Docket No. 23340 Amendment Nos. 21-62, 25-63, and 36-15]

Standards Governing the Noise Certification of Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule revises certain provisions of the regulations prescribing requirements for aircraft noise certification to make them more understandable and easier to use. This amendment also contains substantive regulatory changes simplifying noise certification test and recordkeeping requirements. This regulation is part of the President's regulatory reform program and is based on the body of good engineering practice that has developed since the original adoption of Part 36 in 1969. It also reflects comments received from the general public and the aviation industry in response to a Petition for Rulemaking from the Aerospace Industries Association of America and to an FAA Notice of Proposed Rulemaking.

EFFECTIVE DATE: Effective date of this amendment is May 6, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey VanWyen, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267-3558.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to amend portions of the Federal Aviation Regulations (14 CFR Part 36) and amend references in Part 36 contained in other parts (14 CFR Parts 21 and 25). This amendment is based on Notice No. 85-2 (50 FR 4172, January 29, 1985). Comments were invited. All comments have been received and considered in the issuance of this final rule.

Synopsis of the Proposal

Part 36 of the Federal Aviation Regulation (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. As the part is currently organized, Subparts B and C and Appendices A, B, and C apply in part to transport category large airplanes and subsonic turbojet powered airplanes regardless of category. This amendment revises these sections of the part to better reflect the actual technical basis for noise certification of aircraft. Substantive changes are made in the noise certification testing, recordkeeping and reporting requirements. The Federal Aviation Administration (FAA) has found that while there will be a substantial cost reduction realized as a result of these changes, there will be no net increase or decrease in noise standard compliance stringency for any class of aircraft. Further, this amendment will not result in any increase or decrease in aircraft noise levels.

Changes in Test Requirements

This amendment to the noise certification test requirements is intended to simplify the noise test procedures, to clarify the purpose of the tests, to update equipment specifications to better accommodate the use of modern digital electronics, and to further reduce the number of flight tests conducted solely for approval of relatively minor aircraft modifications. One such change involves decreasing from four to two the minimum number of sideline noise measuring stations which are used to define the maximum sideline noise. By placing the remaining microphones on either side of the point where the jet aircraft reaches 1000 feet or 1440 feet altitude (AGL), the maximum aircraft noise can be accurately determined at significantly lower costs for equipment, installation, calibration and data reduction.

Similarly, relative humidity and wind limits on test conditions are eased to maximize available test sites and usable days at those sites. The humidity limit is increased for those applicants using higher-precision instruments, while the wind limit increase is based on wide industry/government experience. The requirement which specifies the location of the meteorological instrumentation is clarified to require that the weather be measured in the vicinity of the noise measuring stations, rather than at the nearest airport.

A number of technical amendments to the analyzer specifications and to the data reporting requirements are adopted to facilitate the use of a wider variety of instrumentation, particularly the newer digital analyzers. Further, because recent computer processing advances make it possible to use data closer to the ambient noise floor and, in some cases, to reconstruct data where parts of the spectrum are below the ambient, greater flexibility is provided to the FAA in approving test and analysis procedures.

One of the major purposes of this amendment is to provide clearer guidelines on the use of nonflight, supplemental tests to meet Part 36 certification requirements. The cost of noise certification of a single jet aircraft type often runs from several hundred thousand dollars to well over a million. Where a long production run of a complex and sophisticated aircraft is anticipated, this cost is generally insignificant when compared to the total development cost of the project. However, to meet the increasingly competitive nature of aviation in this decade, aircraft manufacturers have shortened production runs of standard models and now produce families of related short production run versions. This revision will make it easier to collect a flight data base of sufficient quality and breadth from the first aircraft in such a family so that other related aircraft can be noise certificated using that data base, supplemented by only relatively simple and inexpensive tests and analyses. For instance, noise data from static tests conducted at either the engine or aircraft manufacturer's ground facilities may be approved, as appropriate, by FAA certificating authorities.

Changes in Documentation Requirements

The documentation requirements placed on industry and on individual applicants ae reduced as a result of this amendment. These changes will result in lower expenditures in manpower and effort by the government in the review and approval of noise certification documents.

The elimination of certain requirements for prior FAA approval of test procedures greatly simplify the paperwork prior to the test, as well as simplify the test itself. As amended, Part 36 retains the requirement for an approved test plan, albeit a simpler one. Similarly, the certification report requirement which contains the engineering data supporting the certification also remains.

Reduction of the post-certification paperwork, however, is where this amendment works its greatest effect. Previously, Part 36 required that each Airplane Flight Manual (AFM) must contain all procedures that are employed in the flight test, the certificated noise levels, any weight limitations that were required to meet the noise level requirements, and "other information for the flight crew." While this did not appear to be an onerous burden at the time the original Part 36 was adopted, the FAA has found a number of situations where these seemingly simple requirements have

resulted in a distortion of the AFM functions. Several large commercial jet aircraft types have been certificated with hundreds of different versions within each type. As a result, the AFMs contain hundreds of pages of noise "information." Under these circumstances, it becomes extremely difficult to identify which data are applicable to any particular airplane on a given day.

The AFM is a required document providing on-board information necessary for the flight crew. It contains specific aircraft performance data, flight procedures, and aircraft limitations vital to the safe operation of the airplane. As indicated above, noise information is also included. However, after careful consideration, the FAA found that it was appropriate to greatly reduce and simplify the noise portion of the manual. Aircraft weight limits or operating configurations required to meet Part 36 certification will continue to be placed in the limitations section of the AFM. However, beyond this, the FAA feels that only the minimum information necessary to obtain a Part 36 compliance statement and the takeoff, approach, and sideline noise levels for that specific airplane configuration is needed. Thus, the FAA clarifies Parts 25 and 36 to preclude the inclusion of inappropriate information in the AFM.

Other Changes

The acoustical change provisions of Part 21 are clarified by specifically excepting from the noise certification requirements several temporary configurations and conditions used for maintenance. Since none of these conditions represents the permanent configuration of any aircraft type, the FAA finds that this action is consistent with Section 611 of the Federal Aviation Act (as amended).

Numerous references to obsolete dates and conditions are removed to shorten and simplify Part 36 while several sections have been retitled more appropriately.

Regulatory History

Since its adoption in November 1969, FAR Part 36 has been a significant basis for all Federal aircraft noise regulations in the United States. That regulation was structured to provide a firm, consistent foundation for subsequent rulemaking activities to abate and control aircraft noise. Part 36 includes precise instructions concerning the acquisition, processing, and documentation of noise data from inflight aircraft. As originally promulgated, part 36 applied only to turbojet aircraft and propeller-driven transport category airplanes over 12,500 pounds maximum gross weight.

Amendment 36–4 (40 FR 1029, January 6, 1975) added noise certification standards for propeller-driven small airplanes. The noise level limits for certain new turbojets and transport category airplanes were lowered in 1977 by Amendment 36–7 (42 FR 12360, March 3, 1977). In 1978, these lower noise level standards were applied to derivatives of older aircraft types. Noise standards for Concorde supersonic transport airplanes were also adopted in 1978 by Amendment 36–10 (43 FR 28406, June 29, 1978).

Amendment 36–9 (43 FR 873, March 2, 1978), which was adopted in 1978, widely revised the test and analysis specifications contained in Appendices A and B of Part 36. The specifications were expanded to include technical details that had been omitted from the original publication. An example of this was the addition of a section on the calibration of acoustical test equipment. Other changes were made to bring FAR Part 36 into substantial agreement with international standards on noise measurement and with the procedures adopted for noise certification by the International Civil Aviation Organization (ICAO).

The FAA published (47 FR 47854, October 28, 1982) for public comment, a petition from the Aerospace Industries Association of America (AIA) on behalf of its member aircraft manufacturers for amendment of FAR Parts 21 and 36. Notice No. 85–2 (50 FR 4172, January 29, 1985) contained a summary of the comments submitted to the Docket in response to the petition, and the disposition of the issues raised. Notice No. 85–2 also proposed 41 specific changes to Part 36. A discussion of docketed comments on those proposals and the disposition of the issues follow.

Discussion of Comments

Interested persons have been afforded the opportunity to participate in development of all aspects of this rulemaking by submitting written comments to the public regulatory docket. The period for submitting comments closed April 4, 1985. All comments received have been reviewed and considered in the issuance of this final rule.

Thirteen public comments were received in response to the notice (Docket No. 23340). All of the commenters supported the stated goals and most of the 41 proposed amendments. In addition, nearly every response contained specific suggestions or recommendations about one or more issues.

The comments are discussed below. They are grouped by broad categories of issues.

Acoustical Change

Meeting the noise requirements of Part 36 is one of the steps in the certification approval process for any change to an already certificated aircraft. Included are changes to the aircraft type design which might affect the noise emission characteristics of the aircraft. The definition of acoustical change and the requirement to meet Part 36 standards for design changes within that definition are in Part 21. In Notice 85–2, the FAA proposed to exempt from the definition of acoustical change for turboject aircraft and transport category large aircraft configured for (a) gear down flight with one or more retractable landing gear down during the entire flight and (b) carriage of a spare engine and nacelle carriage external to the skin of the airplane (and just the pylon or other external mount).

Only two comments were received on this issue. Both supported the proposed change as reasonable and necessary. The FAA agrees and is adopting the modification as proposed.

Aircraft Flight Manual

Over the past several years, there has been some concern that the aircraft operational limits, if any, that are established as a result of FAR 36 noise certification are not being expressed properly in the Aircraft Flight Manual (AFM) when promulgated with reference to the airworthiness limitations. To clarify the intent of the existing regulations, Notice No. 85–2 proposed to add clarifying language in Part 25 (where additional AFM requirements are listed) and in Part 36.

Section 25.25(a) clarifies that the maximum gross weight which meets the noise requirements of Part 36 limits the maximum certification weight. One of the two commenters supported the clarification; the other, a large trade association, reported that some members were opposed while others were favorable. The FAA notes that this provision does not change the regulatory requirement, but simply clarifies the Part 25 certification process by expressly referencing the weight certification requirements of Part 36. The FAA, therefore, is adopting this clarification.

Similarly, Notice No. 85–2 proposed to clarify the definition of Stage 1, Stage 2, and Stage 3 airplanes by categorically stating that each airplane can only be classified in one stage given a specific configuration.

Five commenters responded on this issue. All were opposed to the specific wording proposed for § 36.1(g) because, in their opinion, the words could be interpreted as requiring each airplane to remain within one Part 36 Stage. However, none of the commenters appeared to object to the stated intent of the proposal and several suggested small changes in the regulatory language to eliminate the problem.

For more than a decade, the FAA has both encouraged and required the application of available noise reduction technology. The goal has been to move Stage 1 aircraft into Stage 2 and Stage 2 aircraft into Stage 3. In most cases, this has been done voluntarily without the need for regulation. The FAA does not intend to inhibit such actions. Therefore, in light of the comments the FAA had decided to accept the suggestion of one commenter that the regulation should more clearly indicate that an airplane may not be certified to two stages simultaneously or that an airplane may not, without a change in type design configuration, comply with one stage and then another. Further, it should be noted that current regulations clearly prohibit Stage 2 or Stage 3 aircraft from becoming Stage 1 aircraft.

Notice No. 85–2 also proposed three minor changes in § 36.1581 to clarify that the AFM allows only one certification noise value each for takeoff, approach, and sideline. Since, for flight safety reasons, the AFM on board any airplane may only describe the one current certificated configuration for the airplane, the present rules only require the AFM to have the noise information for that one configuration. As noted in Notice 85–2, the lack of clarity in the Federal Aviation Regulations has caused some manuals to contain detailed noise information on dozens and possibly hundreds of different configurations. The AFM, however, is basically a flight safety document containing vital information for the pilot and crew. While it was determined more than 15 years ago that it would serve a legitimate and useful purpose for the AFM to contain limited noise information, it never was intended for the AFM to become a noise primer on every possible variation in noise levels that might result from changes in configuration, operating procedure, or weather conditions. Thus, Notice 85–2 proposed to consolidate the existing regulations that affect the selection of noise data for the AFM and eliminate the requirement for noise certification test procedures to be included.

Seven comments were received on the proposed amendments to § 36.1581. All agreed with the need to reduce the volume of noise information in the AFMs and with the proposal to eliminate the requirement for noise certification test procedure documentation. Several commenters expressed concern that the FAA's proposed language would limit the use of several "configurations" that have been approved for both safety and noise. The FAA cannot agree.

An airplane is a versatile machine. In most cases, it is designed and built so that it may be operated with different combinations of weight, speed, flap settings, engine power setting, etc. Combinations of these parameters are optimized by the manufacturer for different missions (range payload, speed, weather, runway length, etc.). Each combination is called a configuration. Each configuration, in turn, has clearly stated operating limits involving various parameters. These limits are set by the airplane's manufacturer on the basis of safety. Occasionally, these limits may be further restricted by the manufacturer to lower the noise level of the airplane. The FAA oversees this process on each configuration of every airplane type, maintaining first the highest degree of safety. The FAA's approval is called certification. As a part of this certification, the FAA approves the manufacturer's AFM which contains detailed information needed by the pilot and crew to safely operate the airplane within the limitations of one configuration.

An airline or other operator may purchase from the manufacturer the right to use several different configurations of the same airplane. However, for safety reasons it is vital that the pilot and crew know the limitations applicable to the specific configuration that they are flying that day. Thus, FAA safety rules require each AFM to describe only one configuration at any point in time, no matter how many other configurations the manufacturer has sold to the operator. The proposed changes to § 36.1581 would not change this; they would only restate the existing airworthiness requirement in that portion of Part 36 which deals with AFM information. The FAA believes that this is necessary to avoid confusion. For that reason, the proposed amendments to § 36.1581 are adopted.

Obsolete Dates and Conditions

Numerous references to dates and conditions that are no longer pertinent to present and future applicants for type certification were proposed for removal under Notice No. 85–2. All commenters to the Docket endorsed this activity. Three, however, had comments on specific proposed deletions. A U.S. trade association suggested that "(except as provided in § 36.7)" be inserted in § 36.201(b) after the words "type certifications." The FAA does not agree and the language as proposed in the Notice is adopted.

A British trade association and a British manufacturer submitted identical comments suggesting deletion of the provisions, contained in § 36.7(d), which use the engine bypass ratio in determining which provisions apply to applications for "acoustical changes". The FAA agrees that § 36.7(d) should be simplified and shortened. However, the FAA also believes that implementation of this specific suggestion would be neither economically reasonable nor technologically practicable. The differing technologies available to high and low bypass ratio engines require different treatment under the retulation. Thus, the FAA believes that implmeentation of this suggestion would have the effect of restricting the applicability of Part 36 to new type designs and to the first few derivative configurations. Since adoption of this restriction would prevent the FAA from complying with the intent of Part 36, the FAA declines to accept the suggestion.

Certification Reports

Sections 36.1501 and A36.5 contain the documentation requirements for technical data reports on certification tests and results. Notice 85–2 proposed to clarify the required information and further proposed to specifically allow inclusion of data from supplemental test (such as ground-based static tests of engines). This increased flexibility would allow wider use of cost-saving equivalent procedures as long as the data could be analyzed to yield results that would be equivalent to the results of actual aircraeft flight tests.

Only one comment was received on the proposed change to § 36.1501. The commenter opposed the use of "equivalent procedures" such as ground-based static engine tests since such tests by themselves would not be a true measure of the noise increments experienced from an engine change. The commenter states that such changes are often accompanied by changes in nacelles, wing design, fuselage length, and gross weight. The FAA, on the basis of experience, agrees with the reasoning but does not agree with the conclusion. No equivalent procedure has ever been approved (nor would it be under the revised text) under the conditions described where the only supplemental

data are those derived from static engine testing. All acoustical and performance data used to develop noise certification levels are based on actual flight tests. The supplemental tests which would be documented under § 36.1501 and section A36.5 are only used to make adjustments to the flight data where it can be shown that there are no other changes to the noise sources, including their relative contributions to the total noise signature. Supplemental flight data or a totally new flight data base might be necessary to derive the noise level numbers under the cited conditions. For these reasons, and because the proposed change would not affect the approval of equivalent procedures but only the test documentation, the FAA disagrees and adopts the language proposed on the Notice.

Two comments were received on the proposed change to section A36.5. Both suggested the inclusion of "appropriate propeller powered aircraft performance parameters relevant to noise generation." While the FAA believes this suggestion may be valuable, its inclusion would be outside the scope of Notice 85–2. The FAA will consider including this concept in future rulemaking.

One commenter also noted that the wording of the proposed revision to section A36.5(b)(5)(vii) would remove the requirement for aircraft height and position data independent of normal flight instrumentation. Since this is a key part of ICAO certification, adoption of the proposed wording could have the effect of invalidating international acceptance of U.S. certifications, along with the attendant economic consequences. The FAA did not intend to remove the requirement for independent height and position data, but agrees that the proposed wording would have that effect. Consequently, the FAA has decided not to adopt the proposed revision of that section.

Test Procedures

Notice 85–2 proposed nine separate changes in the Part 36 noise certification test procedures. In each case, the intent of the proposed change was to lower the cost of certification without significantly diluting the quality of the noise data used for certification.

Seven comments were received on the proposed changes to section A36.1(b). All supported the proposed simplifications, although one commenter expressed concern with regard to the FAA's credibility in administering the noise certification process. It should be noted that the FAA continues its commitment to a strong noise regulatory structure. To this end, the FAA has reviewed these procedures with national and international experts and remains confident that the noise certification process will remain intact and effective. Simplification and cost savings are not being purchased by a decrease in stringency or thoroughness.

In response to a British suggestion, the word "height" is substituted for "altitude" in section A36.1(b)(7) to signify the airplane's height above the local terrain containing the noise measuring sites. Similarly, a test tolerance (500 to 0 ft.) on this height is inserted, because without such a tolerance the airplane would be required to make every test flight 1000 to 1440 ft. above the terrain.

Notice 85–2 proposed to require more accurate measurements of ambient temperature and relative humidity. It also establishes a higher upper limit average wind speed for the microphone and a higher limit crosswind speed average for the aircraft. It also proposed to increase the upper limit average wind speed from 10 knots to 12 knots for the instrumentation and the acceptable crosswind speed for the microphone from 5 knots to 7 knots. The maximum wind speed cannot exceed 15 knots for the instrumentation and 10 knots for the crosswind. The Notice also proposed to clarify that the meteorological variables should be measured in the vicinity of the noise monitors. Widening these weather windows would lower costs to both industry and government by minimizing the delays which presently tie up equipment, aircraft, and personnel for days while waiting for specific weather conditions. Five comments were received. One supported the proposal, one wanted to remove all test weather limits under certain conditions, and three foreign organizations objected because of the belief that the Notice proposed maximum winds of 15 knots and crosswind limits of 10 knots. They suggested use of the ICAO limits, 12 and 7 knots, respectively. However, the FAA notes that Notice 85–2 did, indeed, propose the ICAO values of 12 and 7 knots for the upper average limits while also setting maximum values. Therefore, the FAA adopts the proposed revisions.

A number of changes were proposed in the technical specifications for the electronic equipment used in the collection and analysis of the noise data. These changes generally follow the standards adopted by the ICAO and should minimize costs where manfacturers have to certificate to both ICAO and U.S. standards.

Eight comments were received on the proposed revisions to the microphone specifications. Most were general comments on the need to duplicate the ICAO specifications. One specific comment noted that the wording of the last sentence of section A36.3(c)(2)(ii) varied somewhat from the ICAO standard and that this difference would cause applicants difficulty. After considering the issue, the FAA agrees and the amended specification is adopted with the suggested change.

The FAA also proposed to revise the electronic specifications for the noise analyzer. Earlier specifications were based on the analog system used a decade ago. Notice 85–2 proposed, instead, to update this section, based on the digital equipment currently in use. Since ICAO has not yet adopted similar revisions, most of the seven commenters recommended delaying adoption. However, the FAA believes that the problems encountered by both applicants and government in trying to qualify digital systems under analog specifications require the FAA to act. Thus, the proposed revision to section A36.3(d) is adopted. However, should ICAO eventually adopt differing specifications, it is the intention of the FAA to issue a subsequent notice proposing adoption of the ICAO standard in the United States. In adopting section A36.3(d)(5)(i), the FAA also corrects a typographical error that appeared in the Notice. The correct standard deviation is 0.48 decibels.

Data Correction and Analysis

Notice 85–2 proposed to amend section A36.5 to clarify the information that is needed to correct the data to standard reference conditions in that the referenced atmosphere should be considered to be homogeneous. Specifically, only those engine performance parameters relevant to noise generation, such as net thrust, engine pressure ratio, exhaust temperatures, and fan or compressor rotational speeds, would be reported. Aircraft sound pressure levels need to exceed the ambient background by only 3 decibels instead of the present 5 decibels. The Notice proposed to allow lower signal-to-noise ratios if the method for separating the signal from the noise is approved by the FAA. Several other amendments to Appendices A and B of FAR 36 were proposed that would make relatively minor changes to mathematical constants in the correction procedures or that would make minor revisions in the description of the procedures. These were considered to be clarifying, not substantive, even when the amount of data to be reported was reduced.

Seven of the comments responded to these proposed changes with suggestions for improving the clarity of the revisions. These minor typographical suggestions have been incorporated.

Other Comments

Several respondents to the Docket took the opportunity to make suggestions for additional changes and modifications outside the scope of Notice 85–2. Even though some of these comments appear to have merit, the FAA does not believe their cumulative value justifies a delay in issuing this final rule in order to issue a supplemental NPRM.

Section-by-Section Analysis

Part 21

Section 21.93 prescribes the procedural requirements for the approval of changes in type design that may increase the noise levels of an airplane type. Paragraph (b)(2) is amended to add an exclusion for gear down flight with one or more retractable landing gear down during the entire flight and for spare engine and nacelle carriage external to the airplane skin (and the return of the pylon or other external mount).

Part 25

Section 25.25 contains the criteria upon which the maximum weight of an aircraft is based. This section is clarified to note that the highest weight at which compliance is shown with the certification requirements of Part 36 may be, under some circumstances, the limiting maximum weight.

Part 36

The last sentence of § 36.7(e)(1) is amended to clarify that Part 36 noise tradeoff provisions may not be used to increase non-complying Stage 1 noise levels. The Part 36 tradeoff provisions can be used, however, once the modified airplane qualifies as a complying Stage 2 airplane. This could occur, for instance, when the aircraft increase in weight raised the allowable Stage 2 limit by more than the measured increase in noise.

Sections 36.7 (d) and (e) and 36.301(b) are revised to remove obsolete language, dates, and references. Sections 36.201 (c) and (d) are deleted for similar reasons.

Section 36.1501 is expanded to clarify the need for approval of equivalent procedures and to allow wider flexibility in the use of non-flight test data to supplement approved flight data bases.

Two subparagraphs are added to § 36.1581(a) to clarify that only one value for each noise certification test point for takeoff, sideline, and approach as defined by Appendix C may be placed in the Aircraft Flight Manual, along with associated weight and configuration. Similarly, one value for flyover as defined by Appendix F for propeller driven small airplanes may be placed in the Aircraft Flight Manual. If additional operational noise information is included in the Aircraft Flight Manual, it must be segregated from the certification data in accordance with § 36.1581(b). The old § 36.1581(c) is reworded to clarify its intent and redesignated as (d).

Appendix A of Part 36

Section A36.1(b) is revised to allow flight path intercept tests, rather than requiring only full stop takeoffs and landings for every test. This section is also amended to allow a minimum of two symmetrically-placed microphones to measure the sideline noise rather than the minimum of four currently required. Both changes are expected to provide wider flexibility in the choice of test sites and to significantly lower the cost of such tests.

Section A36.1 is revised to expand the flight test weather window when the dew point and dry bulb temperature are measured with an instrument accurate to within one-half degree Centigrade. The allowable winds during the test are increased to those specified in ICAO Annex 16. The requirements to generate noise level versus weight information for takeoff and approach are deleted.

A number of the technical specifications in section A36.3 are revised to accommodate the use of digital recording and filtering techniques. Sections A36.3(e)(7) is revised to require a performance calibration analysis of each piece of calibration equipment at least once every six months.

Section A36.5 contains the requirements on reporting and correcting measured data. Section A36.5(b) is revised to eliminate the need to obtain engine performance data solely from flight instrumentation or manufacturer's data. By this revision, static tests and other sources of supplemental data can be employed. Section A36.5(c) is also amended to indicate that the noise certification atmosphere is homogeneous. That section is also amended to replace an erroneous reference to "design" landing weight with the correct reference to "maximum" landing weight.

Section A36.5(d) is amended to accept one-third octave band data that are at least 3 decibels above the mean background noise in that band. Before this amendment, the data had to be at least 5 decibels above ambient. This change permits greater flexibility in the choice of test conditions and is particularly necessary for the test of quiet airplanes. Greater flexibility is also provided by the approved use of time/frequency interpolation and equivalent procedures within the indicated limits.

Section A36.5(e) is revised to add a new paragraph (4) which specifically allows the orderly development of noise certification for certain derivatives of aircraft type design, and provides simplified methods for computing the 90 percent confidence limit for those derivatives.

The requirements in section A36.9(b) for locating meteorological measurements have been changed to permit their placement near the measuring stations, rather than using meteorological data from the nearest airport. This is intended to improve the quality of the meteorological data in those cases where the flight tests are not conducted at an airport. Another change to the meteorological specifications is made in section A36.9(d)(2) where the criterion for using the simplified method for deriving the values of the atmospheric coefficients has been broadened. Accordingly, the simplified method may be used if the atmospheric absorption coefficients do not vary over the sound propagation path of the maximum noise by more than plus or minus 1.6 decibels per thousand feet in the 3150 Hertz one-third octave band.

Section A36.11(a)(3)(v) is amended to delete the requirement for graphical or tabular data presentations during data correction. These corrections may not be done by computer or other appropriate means.

Several small corrections are made to section A36.11(e). One updates a cross-reference to sections A36.11 (b) and (c), while the others correct a mathematical constant used in the Delta 2 calculations for takeoff, approach and sidelines.

Section A36.11(f) is completely revised and considerably shortened to provide clearer guidance or appropriate correction procedures when the takeoff and/or approach noise measurements are made at non-standard locations. Two alternative methods are provided.

Appendix B of Part 36

Section B36.5(h) and Table B–2 are revised to eliminate calculation of tone penalties for tones less than 1.5 decibels.

Sections B36.9, B36.11, and B36.13 contain the technical and mathematical details of the methods for calculating Effective Perceived Noise Levels (EPNL). Several small changes are made in the

formulation to simplify the computerized procedure.

Appendix C of Part 36

Sections C36.5(c), C36.7(d), and C36.9(d) are deleted as unnecessary and the subsequent sections are redesignated accordingly. Sections C36.7 and C36.9 are retitled to better describe their functions.

Regulatory Impact Evaluation

The FAA conducted a detailed regulatory evaluation which is included in the regulatory docket. This evaluation assesses the economic impact of all changes to Parts 21, 25, and 36. The FAA has determined that this rule is consistent with the objectives of Executive Order 12291 as part of the President's Regulatory Reform Program to reduce regulatory burdens on the public. This rule imposes no additional costs on the Federal government.

The amendments in this rule will provide benefits in the aggregate to the aviation industry and the general public. These benefits arise from deletion of unnecessary noise certification testing and recordkeeping requirements, clarification of regulatory text, and relaxation of certain test and documentation requirements. The amendments better reflect new technologies and consequently many amendments are clarifying and editorial in nature. As an overall result of these amendments, the regulations are more concise and easier to understand. None of the amendments are expected to result in a major cost to the aviation industry. There are 10 amendments which are expected to yield minimal to minor benefits and three amendments are expected to result in minimal to minor costs. One of the amendments which will reduce from 4 to 2 the number of sideline measurement stations needed as part of the aircraft noise certification process is estimated to save manufacturers approximately $2.0 million discounted over a 10 year period. For the reasons stated above, the benefits flowing from these amendments substantially outweigh any associated costs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires government agencies to review rules which may have a "significant economic impact on a substantial number of small entities."

These amendments directly impact large manufacturers of aircraft. The FAA size threshold for a determination of a small entity for aircraft manufacturers is 75 employees; that is, any aircraft manufacturer with more than 75 employees is considered not to be a small entity. Based upon this size threshold, the aircraft manufacturers affected by this rule are not small entities. Moreover, of the potential cost impacts, three require minimal computer programing changes which can be accomplished in-house. One of the amendments is estimated to save the manufacturers approximately $2.0 million. The remaining changes are editorial in nature. This rule will not have any significant economic impact.

Therefore, the FAA certifies, this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), a Finding of No Significant Impact has been made. These amendments are primarily administrative, clarifying and organizational, and do not significantly affect the quality of the human environment.

Conclusion

For the reasons stated above, the FAA has determined that this document involves a regulation which is not major as defined in Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, the FAA certifies that under the criteria of the Regulatory Flexibility Act this final rule will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation may be examined in the regulatory docket or obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects

14 CFR Part 21

Aircraft certification procedures for products and parts, Aircraft.

14 CFR Part 25

Airworthiness standards, Aircraft.

14 CFR Part 36

Noise standards, Aircraft noise and type certification.

The Final Rule

Accordingly, the Federal Aviation Regulations (14 CFR Parts 21, 25, and 36) are amended, effective May 6, 1988, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. The authority citation for Part 21 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 21.93(b)(2) is revised to read as follows:

§ 21.93 Classification of changes in type design.

* * * * *

(b) * * *

(2) Turbojet powered airplanes (regardless of category). For airplanes to which this paragraph applies, "acoustical changes" do not include changes in type design that are limited to one of the following—

(i) Gear down flight with one or more retractable landing gear down during the entire flight, or

(ii) Spare engine and nacelle carriage external to the skin of the airplane (and return of the pylon or other external mount), or

(iii) Time-limited engine and/or nacelle changes, where the change in type design specifies that the airplane may not be operated for a period of more than 90 days unless compliance with the applicable acoustical change provisions of Part 36 of this chapter is shown for that change in type design.

* * * * *

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

3. The authority citation for Part 25 is revised to read as follows and the authority citations following the sections in Part 25 are removed:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

4. Section 25.25 is amended by adding "; or" at the end of paragraph (a)(2) and by adding a new paragraph (a)(3) to read as follows:

§ 25.25 Weight limits.

(a) * * *

(3) The highest weight at which compliance is shown with the certification requirements of Part 36 of this chapter.

* * * * *

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

5. The authority citation for Part 36 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 1431(b), 1651(b)(2), 2121 through 2125; 42 U.S.C. 4321 et seq.; Sec. 124 of Pub. L. 98–473, E.O. 1114, 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

6. Section 36.1 is amended by redesignating (g) as (h) and adding a new (g) to read as follows:

§ 36.1 Applicability and definitions.

* * * * *

(g) For purposes of showing compliance with this part for transport category large airplanes and turbojet airplanes regardless of category, each airplane may not be identified as complying with more than one stage or configuration simultaneously.

7. Section 36.7 is amended by revising the last sentence of paragraph (c)(1), and revising paragraphs (d) and (e) to read as follows:

§ 36.7 Acoustical change: Transport category large airplanes and turbojet powered airplanes.

* * * * *

(c) * * *

(1) * * * There tradeoff provisions of section C36.5(b) of Appendix C of this part may not be used to increase the Stage 1 noise levels, unless the aircraft qualifies as a Stage 2 airplane.

* * * * *

(d) *Stage 2 airplanes.* If an airplane is a Stage 2 airplane prior to the change in type design, the following apply, in addition to the provisions of paragraph (b) of this section:

(1) *Airplanes with high bypass ratio turbojet engines.* For an airplane that has turbojet engines with a bypass ratio of 2 or more before a change in type design—

(i) The airplane, after the change in type design, may not exceed either (A) each Stage 3 noise limit by more than 3 EPNdB, or (B) each Stage 2 noise limit, whichever is lower:

(ii) The tradeoff provisions of section C36.5(b) of Appendix C of this part may be used in determining compliance under this paragraph with respect to the Stage 2 noise limit or to the Stage 3 plus 3 EPNdB noise limits, as applicable; and

(iii) During the takeoff and sideline noise test conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(2) *Airplanes that do not have high bypass ratio turbojet engines.* For an airplane that does not have turbojet engines with a bypass ratio of 2 or more before a change in type design—

(i) The airplane may not be a Stage 1 airplane after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(e) *Stage 3 airplanes.* If an airplane is a Stage 3 airplane prior to the change in type design, the following apply, in addition to the provisions of paragraph (b) of this section:

(1) If compliance with Stage 3 noise levels is not required before the change in type design, the airplane must—

(i) Be a Stage 2 airplane after the change in type design and compliance must be shown under the provisions of paragraph (d)(1) or (d)(2) of this section, as appropriate; or

(ii) Remain a Stage 3 airplane after the change in type design. Compliance must be shown under the provisions of paragraph (e)(2) of this section.

(2) If compliance with Stage 3 noise levels is required before the change in type design, the airplane must be a Stage 3 airplane after the change in type design.

8. Section 36.201(b) is revised and (c) and (d) are removed.

§ 36.201 Noise limits.

* * * * *

(b) Type certification applications for subsonic transport category large airplanes and all subsonic turbojet powered airplanes must show that the noise levels of the airplane are no greater than the Stage 3 noise limits prescribed in section C36.5(a)(3) of Appendix C of this part.

9. Section 36.1501 is revised to read as follows:

§ 36.1501 Procedures, noise levels and other information.

(a) All procedures, weights, configurations, and other information or data employed for obtaining the certified noise levels prescribed by this part, including equivalent procedures used for flight, testing, and analysis, must be developed and approved. Noise levels achieved during type certification must be included in the approved airplane (rotorcraft) flight manual.

(b) Where supplemental test data are approved for modification or extension of an existing flight data base, such as acoustic data from engine static tests used in the certification of acoustical changes, the test procedures, physical configuration, and other information and procedures that are employed for obtaining the supplemental data must be developed and approved.

10. Section 36.1581 is amended by revising paragraph (a); removing paragraph (c); redesignating paragraphs (b), (d), (e), and (f), as (c), (e), (f), and (g) respectively; adding new paragaphs (b) and (d); and revising newly redesignated paragraph (g) to read as follows:

§ 36.1581 Manuals, markings, and placards.

(a) If an Airplane Flight Manual or Rotorcraft Flight Manual is approved, the approved portion of the Airplane Flight Manual or Rotorcraft Flight Manual must contain the following information, in addition to that specified under § 36.1583 of this part. If an Airplane Flight Manual or Rotorcraft Flight Manual is not approved, the procedures and information must be furnished in any combination of approved manual material, marketing, and placards.

(1) For transport category large airplanes and turbojet powered airplanes, the noise level information must be one value for each takeoff, sideline, and approach as defined and required by Appendix C of this part, along with the maximum takeoff weight, maximum landing weight, and configuration.

(2) For propeller driven small airplanes the noise level information must be one value for flyover as defined and required by Appendix F of this part, along with the maximum takeoff weight and configuration.

(b) If supplemental operational noise level information is included in the approved portion of the Airplane Flight Manual, it must be segregated, identified as information in addition to the certificated noise levels, the clearly distinguished from the information required under § 36.1581(a).

* * * * *

(d) For transport category large airplanes and turbojet powered airplanes, for which the weight used in meeting the takeoff or landing noise requirements of this part is less than the maximum weight established under the applicable airworthiness requirements, those lesser weights must be furnished, as operating limitations in the operating limitations section of the Airplane Flight Manual. Further, the maximum takeoff weight must not exceed the takeoff weight that is most critical from a takeoff noise standpoint.

* * * * *

(g) Except as provided in paragraphs (d), (e), and (f) of this section, no operating limitations are furnished under this part.

Appendix A—Aircraft Noise Measurement Under § 36.101

11. Section A36.1 is amended by revising paragraphs (b)(1), (b)(7), (c)(3), (c)(4); and removing (d) (5)(iii) and (7)(iii) to read as follows:

Section A36.1 *Noise certification test and measurement conditions.*

* * * * *

(b) * * *

(1) Tests to show compliance with established aircraft noise certification levels must consist of a series of takeoffs and approaches (or stabilized flight path segments thereof) during which measurements must be taken at noise measuring stations located at the measuring points prescribed in section C36.3 of Appendix C of this part. Each recorded segment must include measurements throughout the entire time period in which the recorded signal is within 10 dB of PNLTM.

* * * * *

(7) A minimum of two noise measuring stations, symmetrically positioned about the test flight track, must be used to define the maximum sideline noise with respect to location and level as required by section C36.3 of Appendix C of this part. For turbojet powered aircraft, when approved by the FAA, the maximum sideline noise at takeoff thrust may be assumed to occur at the point (or its approved equivalent) along the extended centerline of the runway where the aircraft reaches 1000 feet (305 meters) altitude above ground level. A height of 1440 feet (439 meters) may be assumed for Stage 1 or Stage 2 four engine airplanes. The altitude of the aircraft as it passes the microphone stations must be within +500 to −0 feet (+150 to −0 meters) of the target altitude. For aircraft powered by other than turbojet engines, the altitude for maximum sideline noise must be determined experimentally.

(c) * * *

(3) Relative humidity and ambient temperature over that portion of the sound propagation path between the aircraft and a point 10 meters above the ground at the noise measuring station is such that the sound attenuation in the one-third octave band centered a 8 kHz is not greater than 12 dB/100 meters and the relative humidity is between 20 and 95 percent, inclusively. However, if the dew point and dry bulb temperature used for obtaining relative humidity are measured with a device which is accurate to within ±0.5 °C, the sound attenuation rate shall not exceed 14 dB/100 meters in the one-third octave band centered at 8kHz.

(4) Average wind velocity 10 meters above ground is not to exceed 12 knots and the crosswind velocity for the airplane is not to exceed 7 knots. The average wind velocity shall be determined using a thirty-second averaging period spanning the 10 dB down time interval. Maximum wind velocity 10 meters above ground is not to exceed 15 knots and the crosswind velocity is not to exceed 10 knots during the 10 dB down time interval.

* * * * *

12. Section A36.3 is amended by revising paragraphs (c)(2), (d)(2), (d)(5), (d)(6), and (e)(7) to read as follows:

Section A36.3 *Measurement of aircraft noise received on the ground.*

* * * * *

(c) * * *

(2) The microphone must be a pressure sensitive capacitive type, or its approved equivalent, such as free field type with incidence corrector.

(i) After an adequate "warm-up" period, at least as long as that specified by the equipment manufacturer, the system output for constant acoustical input shall change by not more than 0.3 dB within any one hour nor by more than 0.4 dB within 5 hours.

(ii) The variation of microphone and preamplifier system sensitivity within an angle of ±30 degrees of grazing (60–120 degrees from the normal to the diaphragm) must not exceed the following values:

Frequency (Hz)	Change in sensitivity (dB)
45 to 1,120	1
1,120 to 2,240	1.5
2,240 to 4,500	2.5
4,500 to 7,100	4
7,100 to 11,200	5

With the wind screen in place, the variation in sensitivity in the plane of the diaphragm of the microphone system shall not exceed 1.0 dB over the frequency range 45 to 11,200 Hz.

* * * * *

(d) * * *

(2) A set of 24 consecutive one-third octave filters must be used. The first filter of the set must be centered at a geometric mean frequency of 50 Hz and the last filter at 10,000 Hz.

(i) The output of each filter must contain less than 0.5 dB ripple.

(ii) The correction for effective bandwidth relative to the response at the center frequency response for each one-third octave band filter must be determined by measuring the filter response to sinusoidal signals at a minimum of 20 frequencies equally spaced between the two adjacent preferred one-third octave frequencies or by using an approved equivalent procedure.

* * * * *

(5) The averaging properties of the integrator must be tested as follows:

(i) White noise must be passed through the 200 Hz one-third octave band filter and the output fed in turn to each detector/integrator. The standard deviation of the measured levels must then be determined from a large number of samples of the filtered white noise taken at intervals of not less than 5 seconds. The value of the standard deviation must be within the interval 0.48±0.06 dB for a probability limit of 95 percent. (An approved equivalent method may be substituted for this test on those analyzers where the test signal cannot readily be fed directly to each detector/integrator.)

(ii) For each detector/integrator, the response to a sudden onset or interruption of a constant amplitude sinusoidal signal at the respective one-third octave band center, frequency must be measured at sampling times 0.5, 1.0, 1.5, and 2.0 seconds after the onset or interruption. The rising responses must be the following amounts before the steady-state level:

0.5 seconds.....4.0±1.0 dB
1.0 seconds.....1.75±0.75 dB
1.5 seconds.....1.0±0.5 dB
2.0 seconds.....0.6±0.5 dB

(iii) The falling response must be such that the sum of the decibel readings (below the initial steady-state level) and the corresponding rising response reading are 6.5±1.0 dB, at each sampling time.

(iv) Analyzers using true integration cannot meet the requirements of paragraphs (d)(5) (i), (ii), and (iii) of this section directly, because their overall average time is greater than the sampling interval. For these analyzers, compliance must be demonstrated in terms of the equivalent output of the data processor. Further, in cases where readout and resetting require a dead-time during acquisition, the percentage loss of the total data must not exceed one percent.

(6) The sampling interval between successive readouts shall not exceed 500 milliseconds and its precise value must be known to within ±one (1) percent. The instant in time by which a readout is characterized, shall be the midpoint of the average period. (The averaging period is defined as twice the effective time constant of the analyzer.)

* * * * *

(e) * * *

(7) A performance calibration analysis of each piece of calibration equipment, including piston phones, reference microphones, and voltage insert devices, must have been made during the six calendar months preceding the beginning of each day's test series. Each calibration must be traceable to the National Bureau of Standards.

* * * * *

13. Section A36.5 is amended by revising paragraph (b)(5)(vi) to read as follows:

Section A36.5 *Reporting and correcting measured data.*

* * * * *

(b) * * *

(5) * * *

(vi) Engine performance parameters relevant to noise generation, such as net thrust, engine pressure ratio, exhaust temperatures, and fan or compressor rotational speeds.

* * * * *

14. Section A36.5(c)(1) is amended by adding the word "homogeneous" ahead of the words "noise certification reference."

15. Section A36.5(c)(2)(i) is revised to read as follows:

* * * * *

(c) * * *

(2) * * *

(i) Maximum landing weight, except as provided in § 36.1581(d) of this part;

* * * * *

16. Section A36.5(d)(3) is amended by revising the first sentence up to the words "octave band" to read as follows:

* * * * *

(d) * * *

(3) Aircraft sound pressure levels within the 10 dB-down points (described in section B36.9 of Appendix B) must exceed the mean background sound pressure levels determined under section A36.3(f)(3) by at least 3 dB in each one-third octave band * * *

* * * * *

17. Sections A36.5(d) (4) and (5) are added to read as follows:

* * * * *

(d) * * *

(4) Where more than seven one-third octaves are within 3 dB of the ambient noise levels, a time/frequency interpolation of the noise data shall be performed using an approved procedure.

(5) If equivalent test procedures, different from the reference procedures are used, the test procedures and all methods for adjusting the results to the reference procedures must be approved by the FAA. The amounts of adjustments must not exceed 16 EPNdB on takeoff and 8 EPNdB on approach, and if the adjustments are more than 8 EPNdB and 4 EPNdB respectively, the resulting numbers must not be within 2 EPNdB of the appropriate Appendix C noise levels including tradeoffs.

* * * * *

18. Section A36.5(e) is amended by substituting the word "mean" for the word "average" each place it appears and by adding a new paragraph (4) to read as follows:

* * * * *

(e) * * *

(4) If equivalent procedures are to be used to certificate several airplane configurations of the same type from noise tests of a single airplane, the test procedures and analysis methods must be approved by the FAA. The request for approval must identify the noise measurement test procedures and data base, the airplane configurations, procedures and analysis methods, the method for establishing the 90 percent confidence limit for each noise certification level, and the proposed equivalent procedures.

19. Section A36.9 is amended by revising paragraph (b)(1) and (d)(2) to read as follows:

Section A36.9 *Atmospheric attenuation of sound.*

* * * * *

(b) * * *

(1) The wind velocity, temperature and relative humidity measurements required under this part must be measured in the vicinity of the noise measuring stations. The location of the meteorological measurements must be approved by the FAA as representative of those atmospheric conditions existing near the surface over the geographical area in which aircraft noise measurements are made. In some cases, a fixed meteorological station (such as those found at airports or other facilities) may meet this requirement.

* * * * *

(d) * * *

(2) If the atmospheric absorption coefficients do not vary over the PNLTM sound propagation path by more than ± 1.6 dB/1000 ft (± 0.5 dB/100 meters) in the 3150 Hz one-third octave band from the value of the absorption coefficient derived from the meteorological measurement obtained at 10 meters above the surface, the mean of the values of the atmospheric absorption coefficients at 10 meters above the surface and at the altitude of the aircraft at PNLTM may be used to determine the atmospheric attenuation rates for each one-third octave band. The resulting atmospheric attenuation rate may be used to compute the PNLTM correction under section A36.11(d) of this appendix.

* * * * *

20. Section A36.11 [Amended].

a. Section A36.11(a)(3)(v) is amended by removing the phrase "in the form of curves or tables giving the variation of EPNL with approach angle."

b. Section A36.11(e) introductory text is amended by revising the first sentence to read as follows: "If the measured takeoff and approach flight paths do not conform to those prescribed as the corrected and reference flight paths, under sections A36.11 (b) and (c) respectively, it will be necessary to apply duration corrections to the EPNL values calculated from the measured data."

c. Section A36.11(e) is amended by revising paragraph (1) up to the words "which represents", (2) up to the words "where NT is", and (3) up to the words "where LX and LXc are" to read as follows:

* * * * *

Section A36.11 *Detailed correction procedures.*

(e) * * *

(1) *Takeoff flight path.* For the takeoff flight path shown in Figure A3, the correction term is calculated using the formula—

$\Delta 2 = -7.5 \log (KR/KRc)$

which represents * * *

(2) *Approach flight path.* For the approach flight path shown in Figure A6, the correction term is calculated using the formula—

$\Delta 2 = -7.5 \log (NT/393)$

where NT is * * *

(3) *Sideline flight path.* For the sideline flight path, the correction term is calculated during the formula—

$\Delta 2 = -7.5 \log (LX/Lxc)$

where LX and LXc are * * *

* * * * *

d. Section A36.11(f) introductory text, (1), (2) introductory text up to the words "the noise levels", and (2)(ii) up to the words "noise evaluation" are revised as follows:

* * * * *

(f) *Nonstandard location correction.* When takeoff and approach noise measurements are conducted at points other than those prescribed in section C36.1 of Appendix C, the EPNL value computed from these measurements must be corrected to the value that would have occurred at the prescribed measuring points under one of the following procedures:

(1) *Simplified procedure.* Unless the amount of adjustment exceeds 8 dB on takeoff or 4 dB on approach, or the correction results in a final EPNL value which is within 1.0 dB of the noise levels prescribed in Appendix C of this part, the correction procedures prescribed in paragraphs (d) and (e) of this section may be used. Since this procedure accounts for extrapolation of PNLTM from the close-in measurement station to the prescribed measuring point, the remaining corrections for differences between test and reference conditions, including thrust and airspeed, must be made afterward.

(2) *Integrated procedure.* If the correction factor exceeds 8 dB on takeoff or 4 dB on approach, or the correction results in a final EPNL value which is within 1.0 dB of the noise levels * * *

* * * * *

(ii) After the measured one half (½) second spectra have been corrected to the measuring points prescribed in section C36.1 of Appendix C, the remaining noise evaluation * * *

Appendix B—Aircraft Noise Evaluation Under § 36.103

21. Section B36.5(h) is amended by replacing "zero" with "one and a half".

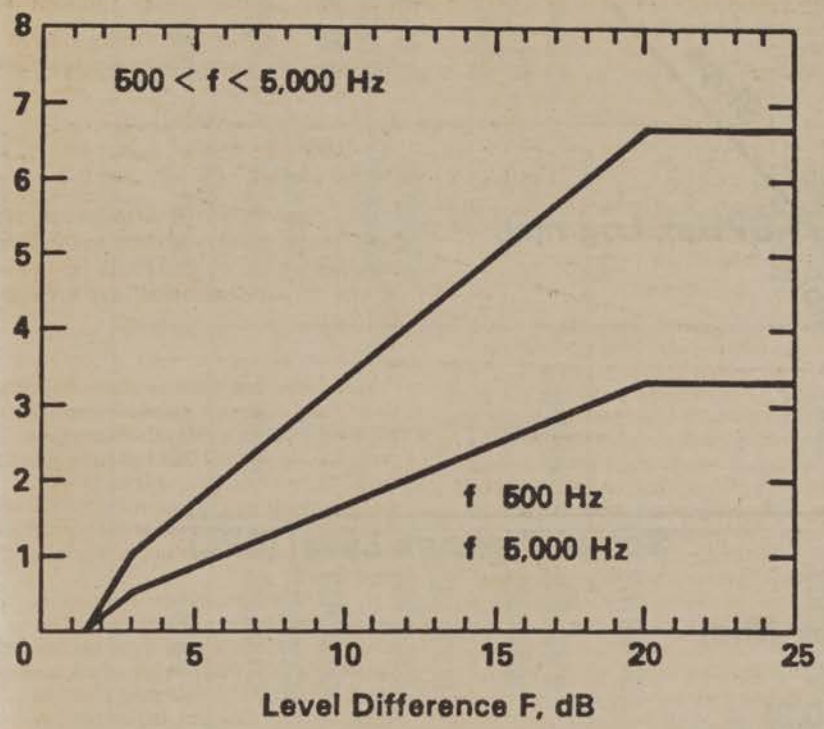
22. The graph and Table B2 now appearing in section B36.7(a) is moved into section B36.5(i) and revised to read as follows:

Section B36.5 *Correction for spectral irregularities.*

* * * * *

(i) * * *

Table B2 — Tone Correction Factors



Frequency f, Hz	Level difference F, dB	Tone correction C, dB
50≤f<500	1½*≤F<3	F/3−½
	3≤F<20	F/6
	20≤F	3½
500≤f≤5,000	1½*≤F<3	2 F/3−1
	3≤F<20	F/3
	20≤F	6⅔
5,000<f≤10,000	1½*≤F<3	F/3−½
	3≤F<20	F/6
	20≤F	3½

* See Step 8.

* * * * *

23. Section B36.9(c) is amended by revising the definition of Δt as follows:

Section B36.9 *Duration correction.*

* * * * *

(c) * * *

Δt=0.5 sec. (or the approved sampling time interval), and

* * * * *

24. Section B36.9(f) is revised to read as follows:

* * * * *

(f) The aircraft testing procedures must include the 10 dB-down points in the flyover noise/time record.

* * * * *

25. Section B36.11(c) is added to read as follows:

Section B36.11 *Effective perceived noise level.*

* * * * *

(c) If, during a test flight, one or more peak values of PNLT are observed which are within 2 dB of PNLTM, the value of EPNL shall be calculated for each, as well as for PNLTM. If any EPNL value exceeds the value at the moment of PNLTM, the maximum value of such exceedance must be added as a further adjustment to the EPNL calculated from the measured data.

26. Section B36.13 is amended by revising paragraphs (a) and (b), Figure B3 and adding Table B4 to read as follows:

Section B36.13 *Mathematical formulation of noy tables.*

(a) The relationship between sound pressure level and perceived noisiness given in Table B1 is illustrated in Figure B3. The variation of log (n) with SPL for a given one-third octave band can be expressed by straight lines as shown in Figure B3.

(1) The slopes of the straight lines M(b), M(c), and M(d) and M(e);

(2) The intercepts of the lines on the SPL axis, SPL (b) and SPL (c); and

(3) The coordinates of the discontinuities, SPL (a) and log n(a); SPL (d) and log n = −1.0; and SPL (e) and log n = log (0.3).

(b) The important aspects of the mathematical formulation are:

(1) SPL > SPL (a)

n = antilog [M(c)*(SPL–SPL(c))]

(2) SPL (b) ≤ SPL ≤ SPL (a)

n = antilog [M(b)*(SPL–SPL(b))]

(3) SPL (e) ≤ SPL ≤ SPL (b)

n = antilog [M(e)*(SPL–SPL(b))]

(4) SPL (d) ≤ SPL ≤ SPL (e)

n = 0.1 antilog [M(d)*(SPL–SPL(d))]

(c) * * *

BILLING CODE 4910-13-M

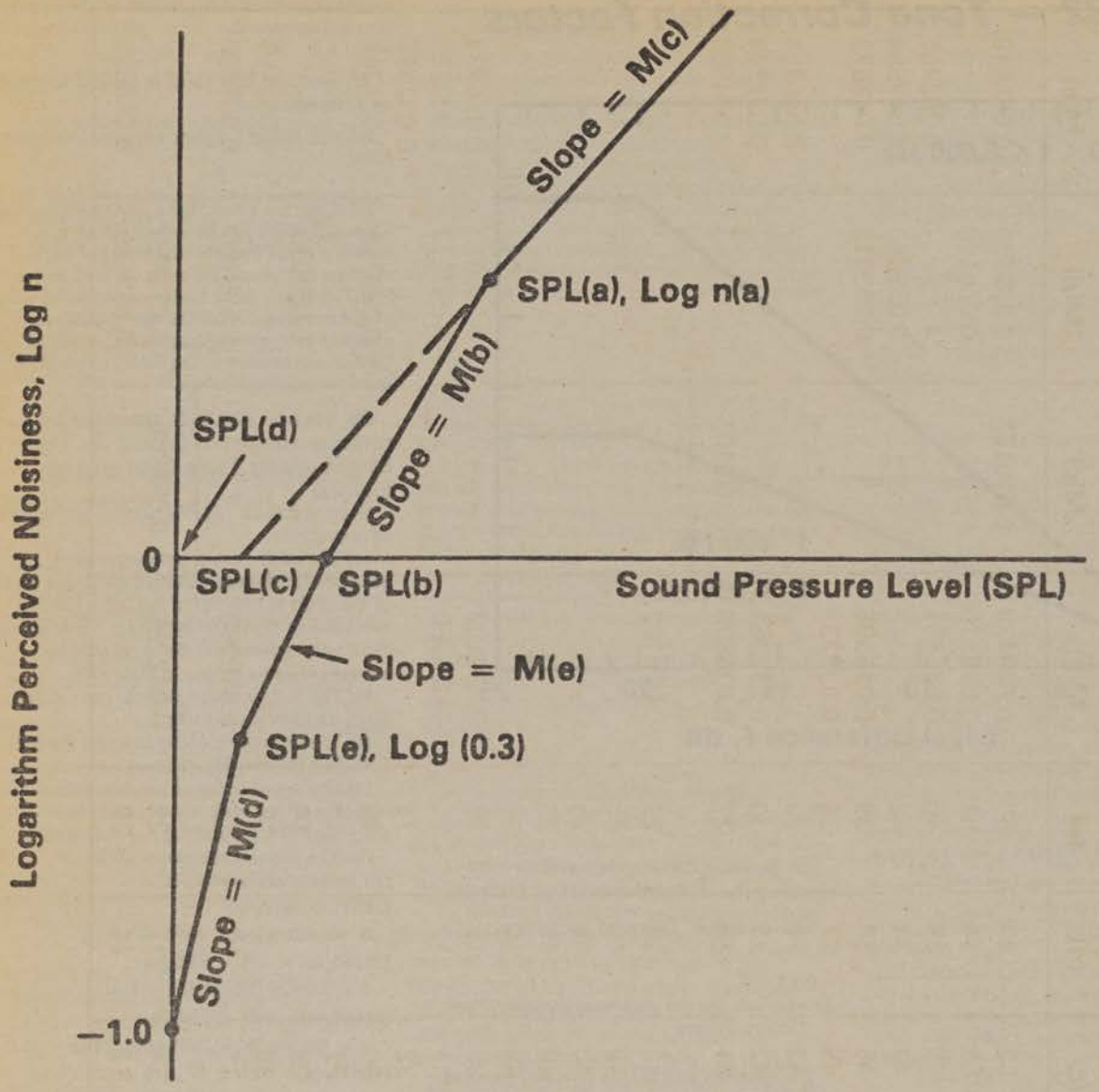


Fig. B3. Perceived Noisiness As a Function of Sound Pressure Level.

Table B4 Constants for Mathematically Formulated NOY Values

Band (i)	f Hz	SPL (a)	SPL (b)	SPL (c)	SPL (d)	SPL (e)	M(b)	M(c)	M(d)	M(e)
1	50	91.0	64	52	49	55	0.043478	0.030103	0.079520	0.058098
2	63	85.9	60	51	44	51	0.040570	↑	0.068160	"
3	80	87.3	56	49	39	46	0.036831	↑	"	0.052288
4	100	79.9	53	47	34	42	"	↑	0.059640	0.047534
5	125	79.8	51	46	30	39	0.035336	↑	0.053013	0.043573
6	160	76.0	48	45	27	36	0.033333	↑	↑	"
7	200	74.0	46	43	24	33	"	↑	↑	0.040221
8	250	74.9	44	42	21	30	0.032051	↑	↑	0.037349
9	315	94.6	42	41	18	27	0.030675	0.030103	↑	0.034859
10	400	∞	40	40	16	25	0.030103		↑	↑
11	500	↑	40	40	16	25	↑		↑	↑
12	630	↑	40	40	16	25	↑		↑	↑
13	800	↑	40	40	16	25	↑		↑	↑
14	1000	↑	40	40	16	25	↑		0.053013	↑
15	1250	↑	38	38	15	23	0.030103	Not	0.059640	0.034859
16	1600	↑	34	34	12	21	0.029960	Applicable	0.053013	0.040221
17	2000	↑	32	32	9	18	↑		"	0.037349
18	2500	↑	30	30	5	15	↑		0.047712	0.034859
19	3150	↑	29	29	4	14	↑		"	↑
20	4000	↑	29	29	5	14	↑		0.053013	↑
21	5000	↑	30	30	6	15	↑		"	0.034859
22	6300	∞	31	31	10	17	0.029960		0.068160	0.037349
23	8000	44.3	37	34	17	23	0.042285	0.029960	0.079520	"
24	10000	50.7	41	37	21	29	"	"	0.059640	0.043573

BILLING CODE 4910-13-C

Appendix C—Noise Levels for Transport Category and Turbojet Powered Airplanes Under § 36.201

27. Section C36.5, the table after paragraph (b)(3), and paragraph (c) is removed.

28. Section C36.7 *Takeoff test conditions* is retitled *Takeoff Reference and Test Limitations.*

29. Section C36.7(d) is removed and paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively.

30. Section C36.9 *Approach test conditions* is retitled *Approach Reference and Test Limitations.*

31. Section 36.9(d) is removed and paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively.

Issued in Washington, DC, on April 14, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88-10005 Filed 5-5-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Register

Friday
May 6, 1988

Part V

Department of Health and Human Services

Centers for Disease Control

National Committee on Vital and Health Statistics; Change in Meeting Dates

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics; Meeting

Action: Notice of Change in National Committee on Vital and Health Statistics Subcommittee on Minority Health Statistics Meeting.

Federal Register Citation of Previous Announcement: 53 FR 12599, April 15, 1988.

Previously Announced Date and Time of the Meeting:

May 10, 1988, 9:00 a.m.—5:00 p.m.
May 11, 1988, 9:00 a.m.—12:00 Noon.

Change in the Meeting: The Subcommittee will meet on May 10, 1988, 9:00 a.m.—5 p.m. only. It will not meet on May 11.

Dated: May 4, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 88-10318 Filed 5-5-88; 11:51 am]
BILLING CODE 4160-18-M

Reader Aids

Federal Register

Vol. 53, No. 88

Friday, May 6, 1988

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, MAY

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

26 CFR

1.....16076, 16214
602.....16076, 16214
Proposed Rules:
1.....16156, 16233
602.....16233

29 CFR

1625.....15673

30 CFR

845.....16016
Proposed Rules:
925.....15702

31 CFR

306.....15553

32 CFR

390.....16254

33 CFR

100.....16255
162.....15555
Proposed Rules:
117.....16292

34 CFR

33.....15673
Proposed Rules:
200.....16292
373.....15776
380.....15776

35 CFR

9.....16256

36 CFR

1258.....16257

38 CFR

21.....16257

39 CFR

111.....16258

40 CFR

35.....15820
52.....16261
152.....15952
153.....15952, 15998
156.....15952, 15998
158.....15952, 15998
162.....15952, 15998
163.....15998
180.....15822-15826
271.....16264
303.....16086
Proposed Rules:
52.....15703
141.....16348
142.....16348
180.....15854, 15855
253.....15624
261.....15704
763.....15857

41 CFR

101-42.....16089
101-43.....16089
101-44.....16089
101-45.....16089
101-46.....16089

42 CFR

400.....16267
Proposed Rules:
57.....15710, 16158, 16293
435.....15857

43 CFR

2.....16128
Proposed Rules:
11.....15714
Public Land Orders:
6675.....16269

44 CFR

59.....16269
60.....16269
61.....16269
62.....16269
64.....15555
65.....16269
70.....16269
72.....16269

46 CFR

150.....15826
153.....15826
Proposed Rules:
581.....15863

47 CFR

Ch. 1.....15557
73.....15560
Proposed Rules:
13.....15572
69.....16301
73.....15572-15575, 15716, 16165
80.....15572

48 CFR

301.....15561
304.....15561
306.....15561
307.....15561
313.....15561
315.....15561
330.....15561
332.....15561
333.....15561
352.....15561
5215.....16280
5252.....16280

49 CFR

1.....15844
350.....15845
511.....15782
831.....15846
1143.....15849
1150.....15849
Proposed Rules:
571.....15576, 15578
575.....16167
1135.....16296
1145.....16296
1201.....15579

50 CFR

91.....16344
661.....16002
672.....16129
Proposed Rules:
32.....16296
33.....16296
216.....16299
644.....15718

LIST OF PUBLIC LAWS

Last List May 5, 1988

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 421/Pub. L. 100-306

Designating May 1988 as "National Digestive Disease Awareness Month." (May 3, 1988; 102 Stat. 454; 2 pages) Price: $1.00